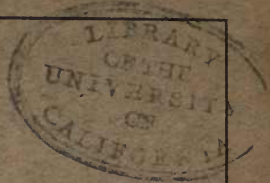


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BASIC PATENT AND TRADE-MARK LAWS

OF THE
PRINCIPAL BELLIGERENT POWERS

TOGETHER WITH

WAR LEGISLATION, ORDINANCES, AND EDICTS
SINCE AUGUST 1, 1914

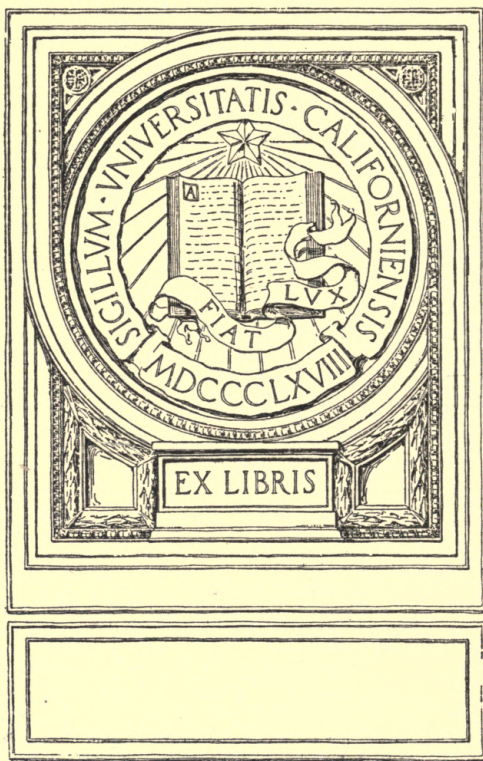
AFFECTING

PATENTS, TRADE-MARKS, AND DESIGNS



WASHINGTON
GOVERNMENT PRINTING OFFICE
1919

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Basic Patent and Trade-Mark Laws

of the

Principal Belligerent Powers

together with

War Legislation, Ordinances, and Edicts
Since August 1, 1914, to January 1, 1919

affecting

Patents, Trade-Marks, and Designs

The documents contained herein are compiled from the following publications:
"Patent Laws of the World," published by the British Chartered Institute of
Patent Agents; "La Propriété Industrielle;" "The Patent and Trade-Mark
Review," New York; "The United States Official Gazette," and other sources,
and have been collected by

LAWRENCE LANGNER, Esq.

and

WILLIAM WALLACE WHITE, Esq.

of New York City

(The collection is not to be regarded as complete; certain laws, edicts, and
decrees not being available at the time of making this compilation)



Washington
Government Printing Office
1919

Basic Patent and Trade Mark Laws

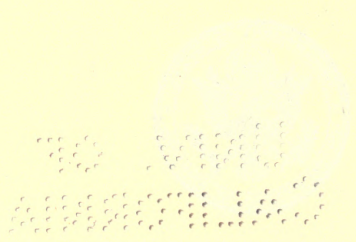
Principal Infringement Powers

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How to Obtain Copyright and Patent
from 1909 to January 1, 1934

Patent, Trade Mark and Copyright

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INTERNATIONAL UNIONS.

INTERNATIONAL UNION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

CONVENTION OF THE UNION OF PARIS, MARCH 20, 1883, FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

[Revised at Brussels Dec. 14, 1900. and at Washington June 2, 1911.]

His Majesty the Emperor of Germany, King of Prussia, in the name of the German Empire; His Majesty the Emperor of Austria, King of Bohemia, etc., and King Apostolic of Hungary, for Austria and for Hungary; His Majesty the King of the Belgians; the President of the United States of Brazil; the President of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; His Majesty the King of Spain; the President of the United States of America; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Territories Beyond the Seas, Emperor of India; His Majesty the King of Italy; His Majesty the Emperor of Japan; the President of the United States of Mexico; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; the President of the Provisional Government of the Republic of Portugal; His Majesty the King of Servia; His Majesty the King of Sweden; the Federal Council of the Swiss Confederation; the Government of Tunis:

Having judged it expedient to make certain modifications and additions to the International Convention of March 20, 1883, concerning the creation of an International Union for the Protection of Industrial Property, revised at Brussels December 14, 1900, have named for their plenipotentiaries:

(Here follow the names of such plenipotentiaries.)

Who, after having been given their full respective powers, made in good and due form, have agreed upon the following articles:

ARTICLE 1. The contracting countries constitute a State of Union for the Protection of Industrial Property.

ART. 2. The subjects or citizens of each of the contracting countries shall enjoy in all the other countries of the Union, with regard to patents of invention, models of utility, industrial designs or

models, trade-marks, trade-names, the statements of place of origin, suppression of unfair competition, the advantages which the respective laws now grant or may hereafter grant to the citizens of that country. Consequently, they shall have the same protection as the latter and the same legal remedies against any infringements of their rights, provided they comply with the formalities and requirements imposed by the national laws of each State upon its own citizens. Any obligation of domicile or of establishment in the country where the protection is claimed shall not be imposed on the members of the Union.

ART. 3. The subjects or citizens of countries which do not form part of the Union, who are domiciled or own effective and *bona fide* industrial or commercial establishments in the territory of any of the countries of the Union, shall be assimilated to the subjects or citizens of the contracting countries.

ART. 4. (a) Any person who shall have duly filed an application for a patent, utility model, industrial design or model, or trade-mark, in one of the contracting countries, or the successor or assignee of such person shall enjoy, for the purpose of filing application in the other countries, and subject to the rights of third parties, a right of priority during the periods hereinafter specified.

(b) Consequently, the subsequent filing in one of the other countries of the Union, prior to the expiration of such periods, shall not be invalidated by acts performed in the interval, especially by another application by publication of the invention or the working of the same, by the sale of copies or the design or model, nor by the use of the mark.

(c) The periods of priority above referred to shall be twelve months for patents and models of utility, and four months for industrial designs and models, as also for trade-marks.

(d) Whoever shall wish to avail himself of the priority of an anterior filing shall be required to make a declaration showing the date and the country of this filing. Each country shall determine at what moment, at the latest, this declaration must be executed. This information shall be mentioned in the publications issued by the competent Administration, particularly on patents and the specifications relative thereto. The contracting countries shall require of one who makes a declaration of priority the production of a copy of the application (specification, drawings, etc.) previously filed, certified to be a true copy by the Administration which shall have received it. This copy shall be dispensed from any legalization. It may be required that it be accompanied by a certificate of the date of filing, issuing from this Administration, and of a translation. Other formalities shall not be required for the declaration of priority at the time of the filing of the application. Each contracting coun-

try shall determine the consequences of the omission of the formalities prescribed by the present article, unless these consequences exceed the loss of the right of priority.

(e) Later other justifications can be demanded.

ART. 4½. Patents applied for in the different contracting countries by persons admitted to the benefit of the Convention in the terms of Articles 2 and 3, shall be independent of the patents obtained for the same invention in other countries, adherent or not to the Union.

This provision shall be understood in an absolute manner, particularly in the sense that the patents applied for during the term of priority are independent, as much from the point of view of the causes of nullity and of forfeiture as from the point of view of the normal duration.

It applies to all patents existing at the time of entrance into force.

It shall be likewise, in case of accession of new countries for patents existing on both sides at the time of accession.

ART. 5. The importation, by the patentee, into the country where the patent has been granted, of articles manufactured in any of the countries of the Union shall not entail forfeiture.

However, the patentee shall be obliged to work his patent according to the laws of the country into which he introduces the patented objects, but with the restriction that the patent shall not be liable to forfeiture because of non-working in one of the countries of the Union until after a term of three years, from the date of the filing of the application in that country, and only in case the patentee shall fail to show sufficient cause for his inaction.

ART. 6. Every trade-mark regularly registered in the country of origin shall be admitted to registration and protected as that in the other countries of the Union.

However, there may be refused or invalidated:

(1) Marks which are of a nature to infringe rights acquired by third parties in the country where protection is claimed.

(2) Marks devoid of all distinctive character, or even composed exclusively of signs or data which may be used in commerce, to designate the kind, quality, quantity, destination, value, place of origin of the products, or the time of production, or become common in the current language or the legal and steady customs of commerce of the country where the protection is claimed.

In the estimation of the distinctive character of a mark, all the circumstances existing should be taken into account, particularly the duration of the use of the mark.

(3) Marks which are contrary to morals and public order.

The country where the applicant has his principal establishment shall be considered as the country of origin.

If this principal establishment is not located in one of the countries of the Union, that to which the applicant belongs shall be considered as country of origin.

ART. 7. The nature of the product on which the trade-mark is to be applied can not, in any case, be an obstacle to the filing of the mark.

ART. 7½. The contracting countries agree to admit for filing and to protect marks belonging to associations the existence of which is not contrary to the law of the country of origin, even if these associations do not possess an industrial or commercial establishment.

Each country shall be judge of the special conditions under which an association may be admitted to have the marks protected.

ART. 8. Trade-names shall be protected in all the countries of the Union without the obligation of filing, whether it be a part or not of a trade-mark.

ART. 9. Any product bearing illegally a trade-mark or a trade-name shall be seized at importation in those of the countries of the Union in which this mark or this trade-name may have a right to legal protection.

If the laws of a country do not admit of seizure on importation, the seizure shall be replaced by prohibition of importation.

The seizure shall be likewise effected in the country where illegal affixing shall have been made, or in the country into which the product shall have been imported.

The seizure shall be made at the request of the public ministry, or any other competent authority, or by an interested party, individual, or society, in conformity to the interior laws of each country.

The authorities shall not be required to make the seizure in transit.

If the laws of a country admit neither of the seizure on importation nor the prohibition of importation, nor seizure in said country, these measures shall be replaced by the acts and means which the law of such country would assure in like case to its own citizens.

ART. 10. The provisions of the preceding article shall be applicable to any product bearing falsely, as indication of place of production, the name of a definite locality, when this indication shall be joined to a fictitious or borrowed trade-name with an intention to defraud.

The interested party is considered any producer, manufacturer, or merchant, engaged in the production, manufacture, or commerce of such product, and established either in the locality falsely indicated as place of production or in the region where this locality is situated.

ART. 10½. All the contracting countries agree to assure to the members of the Union an effective protection against unfair competition.

ART. 11. The contracting countries shall accord, in conformity with their national laws, a temporary protection to patentable inventions, working models, industrial models, or designs, as well as to

trade-marks, for products exhibited at international expositions, official or officially recognized, organized in the territory of one of them.

ART. 12. Each of the contracting countries agrees to establish a special service for industrial property and a central office for the communication to the public of patents, working models, industrial models, or designs and trade-marks. This service shall publish, as often as possible, an official periodical.

ART. 13. The International Office instituted at Berne under the name of "Bureau international pour la protection de la propriété industrielle" is placed under the high authority of the Government of the Swiss Confederation, which regulates its organization and supervises its operation.

The International Bureau shall centralize information of any nature relative to the protection of industrial property, and form it in a general statistical report which shall be distributed to all Administrations. It shall proceed to considerations of common utility interesting to the Union and shall edit, with the aid of the documents put at its disposal by the different Administrations, a periodical in the French language on questions concerning the object of the Union.

Numbers of this periodical, like all the documents published by the International Bureau, shall be distributed among the Administrations of the countries of the Union in proportion to the number of contributive units mentioned below. Copies and supplementary documents which shall be requested, either by the said Administrations, or by societies or individuals, shall be paid for separately.

The International Bureau shall hold itself at all times at the disposition of the members of the Union, to furnish them special information of which they may have need, on the questions relative to the international service of industrial property. It shall make an annual report of its management which shall be communicated to all members of the Union.

The official language of the International Bureau shall be French.

The expense of the International Bureau shall be borne in common by the contracting countries. They may not, in any case, exceed the sum of sixty thousand francs per year.

In order to determine the contributive part of each of the countries in this sum-total of the expenses, the contracting countries and those which later join the Union shall be divided into six classes, each contributing in proportion to a certain number of units, to wit:

	Units.		Units.
Class 1_____	25	Class 4_____	10
Class 2_____	20	Class 5_____	5
Class 3_____	15	Class 6_____	3

These coefficients shall be multiplied by the number of countries of each class, and the sum of the products thus obtained will furnish the number of units by which the total expenses are to be divided. The quotient will give the amount of the unit of expense.

Each of the contracting countries shall designate at the time of its accession, the class in which it wishes to be ranked.

The Government of the Swiss Confederation shall supervise the expenses of the International Bureau, make necessary advances and draw up annual statements of accounts which shall be communicated to all the other Administrations.

ART. 14. The present Convention shall be submitted to periodical revisions with a view to introducing improvements in it of a nature to perfect the system of the Union.

To this end Conferences of the delegates of the contracting countries shall be held successively in one of the said countries.

The Administration of the country where the Conference is to be held shall prepare, with the concurrence of the International Bureau, the works of such Conference.

The Director of the International Bureau will assist at the meetings of the Conferences and take part in the discussion without a vote.

ART. 15. It is understood that the contracting countries reserve to themselves respectively the right to make separately, between themselves, special arrangements for the protection of industrial property, in so far as these arrangements may not interfere with the provisions of the present Convention.

ART. 16. The countries which have not taken part in the present Convention shall be permitted to adhere to it upon their request.

Notice of adhesion shall be made through diplomatic channels to the Government of the Swiss Confederation, and by the latter to all the others.

It shall entail complete adhesion to all the clauses and admission to all the advantages stipulated by the present Convention, and shall take effect one month after the notification made by the Government of the Swiss Confederation to the other unionist countries, unless a later date shall have been indicated by the adhering country.

ART. 16½. The contracting countries have the right to adhere at any time to the present Convention for their colonies, possessions, dependencies, and protectorates, or for certain ones of them.

They may, to this end, either make a general declaration by which all their colonies, possessions, dependencies and protectorates are included in the adherence, or expressly name those included therein, or simply indicate those excluded from it.

This declaration shall be made in writing to the Government of the Swiss Confederation and by the latter made to all the others.

The contracting countries can, under like conditions, renounce the Convention for their colonies, possessions, dependencies and protectorates, or for certain ones of them.

ART. 17. The fulfilment of the reciprocal obligations contained in the present Convention is subordinated, in so far as need be, to compliance with the formalities and regulations established by the constitutional laws of those of the contracting countries which are bound to secure the application of the same which they engage to do with the least possible delay.

ART. 17½. The Convention shall remain in force an indefinite time, until the expiration of one year from the day when the renunciation shall be made.

This renunciation shall be addressed to the Government of the Swiss Confederation. It shall affect only the country giving such notice, the Convention remaining operative as to the other contracting countries.

ART. 18. The present act shall be ratified, and the ratifications filed in Washington, at the latest, April 1, 1913. It shall be put into execution, among the countries which shall have ratified it, one month after the expiration of this period of time.

This act, with its Final Protocol, shall replace, in the relations of the countries which shall have ratified it: The Convention of Paris, March 20, 1883; the Final Protocol annexed to that act; the Protocol of Madrid, April 15, 1891, relating to the dotation of the International Bureau, and the Additional Act of Brussels, December 14, 1900. However, the acts cited shall remain binding on the countries which shall not have ratified the present act.

ART. 19. The present act shall be signed in a single copy, which shall be filed in the archives of the Government of the United States. A certified copy shall be sent by the latter to each of the Unionist Governments.

In witness whereof, the respective plenipotentiaries have signed the present act.

Done at Washington, in a single copy, the second day of June, 1911.
(Here follow the signatures.)

Final Protocol.

At the time of proceeding to the signing of the act concluded on this day, the undersigned plenipotentiaries are agreed upon the following:

TO ARTICLE 1. The words "Propriété industrielle" (industrial property) shall be taken in their broadest acceptation; they extend to all production in the domain of agricultural industries (wines,

grains, fruits, animals, etc.), and extractives (minerals, mineral waters, etc.).

To ART. 2. (a) Under the name of patents are comprised the different kinds of industrial patents admitted by the laws of the contracting countries, such as patents of importation, patents of improvement, etc., for the processes as well as for the products.

(b) It is understood that the provision in Article 2 which dispenses the members of the Union from obligation of domicile and of establishment has an interpretable character, and must consequently, be applied to all the rights granted by the Convention of March 20, 1883, before the entrance into force of the present act.

(c) It is understood that the provisions of Article 2 do not infringe the laws of each of the contracting countries, in regard to the procedure followed before the courts and the competency of those courts, as well as the election of domicile or the declaration of the selection of an attorney required by the laws on patents, working models, marks, etc.

To ART. 4. It is understood that, when an industrial model or design shall have been filed in a country by virtue of the right of priority based on the filing of a working model, the term of priority shall be only that which Article 4 has fixed for industrial models and designs.

To ART. 6. It is understood that the provision of the first paragraph of Article 6 does not exclude the right to require of the depositor a certificate of regular registration in the country of origin, issued by competent authority.

It is understood that the use of badges, insignia or public decorations which shall not have been authorized by competent powers, or the use of official signs and stamps of control and of guaranty adopted by a unionist country, may be considered as contrary to public order in the sense of No. 3 of Article 6.

However, marks, which contain, with the authorization of competent powers, the reproduction of badges, decorations or public insignia, shall not be considered as contrary to public order.

It is understood that a mark shall not be considered as contrary to public order for the sole reason that it is not in conformity with some provision of laws on marks except in the case where such provision itself concerns public order.

The present Final Protocol, which shall be ratified at the same time as the act concluded on this day, shall be considered as forming an integral part of this act, and shall be of like force, value and duration.

In witness whereof the respective plenipoteniaries have signed the present Protocol.

Done at Washington, in a single copy, June 2, 1911.

Haniel von Haimhausen, H. Robolski, Albert Osterrieth, L. Baron de Hengelmuller, Dr. Paul Chevalier Beck de Mannagetta et Lerchenau, Elemér Pompéry, J. Brunet, Georges de Ro, Capitaine, R. De Lima e Silva, J. Clan, Juan Riaño y Gayangos, J. Florez Posada, Edward Bruce Moore, Melville Church, Charles H. Duell, Frederick P. Fish, Robt. H. Parkinson, Emilio C. Joubert, Pierre Lefèvre-Pontalis, Michel Pelletier, G. Breton, Georges Maillard, A. Mitchell Innes, A. E. Bateman, W. Temple Franks, Lazzaro Negrotto Cambiaso, Emilio Venezian, G. B. Ceccato, K. Matsui, Morio Nakamatsu, J. De las Fuentes, Snyder van Wissenkerke, J. F. H. M. Da Franca, Vte. D'Alte, Albert Ehrensvärd, P. Ritter, W. Kraft. Henri Martin, E. De Peretti de la Rocca, Ludwig Aubert, Antonio Martin Rivero.

And whereas the said Convention has been duly ratified by the United States of America, Germany, Austria-Hungary, the Dominican Republic, Spain, the French Republic, Great Britain, Italy, Japan, the United Mexican States, Norway, the Netherlands, Portugal, Switzerland and Tunis, and the ratifications were deposited with the Government of the United States, on the 1st day of April, 1913;

Now, therefore be it known that I, WOODROW WILSON, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this twenty-ninth day of April, in the year of our Lord, one thousand nine hundred and thirteen, and of the Independence of the United States of America the one hundred and thirty-seventh.

[SEAL.]

WOODROW WILSON.

By the President:

JOHN B. MOORE,

Acting Secretary of State.

INTERNATIONAL UNION.

STATES OF THE UNION FOR THE PROTECTION OF INDUSTRIAL PROPERTY,
JANUARY 1, 1911.

Principal union.

[Convention of Mar. 20, 1883.]

Germany.	Hungary.
Austria.	Italy.
Belgium.	Japan.
Brazil.	Mexico.
Cuba.	Norway.
Denmark and Faroe Islands,	Netherlands:
Dominican Republic.	Dutch Indies.
Spain.	Surinam.
United States.	Curacao.
France, Algeria, and Colonies.	Portugal, with the Azores and
Great Britain:	Madeira.
Australian Commonwealth.	Servia.
Ceylon.	Sweden.
New Zealand.	Switzerland.
Trinidad and Tobago.	Tunis.

Limited unions.

[Arrangements of Apr. 14, 1891.]

1. REPRESSION OF FALSE INDICATIONS OF ORIGIN.

Brazil.	Great Britain.
Cuba.	Portugal.
Spain.	Switzerland.
France.	Tunis.

2. INTERNATIONAL REGISTRATION OF TRADE-MARKS.

Austria.	Italy.
Belgium.	Mexico.
Brazil.	Holland.
Cuba.	Portugal.
Spain.	Switzerland.
France.	Tunis.
Hungary.	

STATES OF THE UNION FOR THE PROTECTION OF LITERARY AND ARTISTIC
WORKS, JANUARY 1, 1911.

[Le Droit d' Auteur, Jan. 15, 1911.]

Germany with her protected territories.	Italy.
Belgium.	Japan.
Denmark.	Liberia.
Spain and colonies.	Luxemburg.
France with Algeria and colonies.	Monaco.
Great Britain with colonies and possessions.	Norway.
Haiti.	Sweden.
	Switzerland.
	Tunis.

I. CONVENTION OF MARCH 20, 1883,

FOR THE PROTECTION OF INDUSTRIAL PROPERTY, WITH THE MODIFICA-
TIONS AND ADDITIONS WHICH HAVE BEEN MADE BY THE
CONFERENCES AT MADRID AND BRUSSELS.

Convention:

Signature, March 20, 1883, at Paris.

Deposition of the ratifications, June 6, 1884, at Paris.

Entered into force, July 6, 1884.

Records respecting the endowment of the international office:

Signature, April 15, 1891, at Madrid.

Deposition of ratifications, June 15, 1892, at Madrid.

Entered into force, January 1, 1898.

Additional charter:

Signature, December 14, 1900, at Brussels.

Deposition of ratifications (close of the proceedings), June 14,
1902, at Brussels.

Entered into force, September 14, 1902.

LIST OF THE STATES THAT ARE MEMBERS OF THE UNION.

Since the Convention went into force: Belgium, Brazil, Spain,
France with Algiers and colonies, Great Britain, Italy, Netherlands,
Portugal with Azores and Madeira, Servia, Switzerland, Tunis, Nor-
way from July 1, 1885, Sweden from July 1, 1885, United States of

America from May 30, 1887, Dutch Indies from October 1, 1888, Surinam and Curacao from July 1, 1890, Domingo (Republic) from July 11, 1890, New Zealand and Queensland from September 7, 1891, Denmark and Faroe Islands from October 1, 1894, Japan from July 15, 1899, Germany from May 1, 1903, Mexico from September 7, 1903, Cuba from November 17, 1904, Australia from January 1, 1909, Austria from January 1, 1909, Ceylon from January 1, 1909, Hungary from January 1, 1909, Trinidad and Tobago from January 1, 1909.

His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Majesty the King of Spain, the President of the French Republic, the President of the Republic of Guatemala, His Majesty the King of Italy, His Majesty the King of the Netherlands, His Majesty the King of Portugal and of the Algarves, the President of the Republic of Salvador, His Majesty the King of Servia and the Federal Council of Swiss Confederation.

Equally animated by the desire to assure, by mutual consent, a complete and effective protection of the industries and commerce of the natives of their respective States and to contribute toward the guarantee of the rights of inventors and to the integrity of commercial transactions, have decided to form a convention for that purpose and have appointed as their plenipotentiaries, viz,

* * * * * * *

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, agreed upon the following articles:

ARTICLE 1. The Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland have formed a Union for the Protection of Industrial Property.

ART. 2. The subjects or citizens of each of the contracting States will enjoy in all the other States of the Union, as regards patents of invention, designs or industrial models, trade or manufacturing marks, and the commercial name, the advantages which the respective laws at present allow or may allow hereafter to the natives. Consequently they will enjoy the same protection as the latter and the same legal remedy against any prejudice that may be caused to their rights, under reserve of their fulfilling the formalities and conditions, to which the natives are subjected by the interior legislation of each State.

ART. 3. Subjects or citizens of States that do not form part of the Union who are domiciled in or have actual and bona fide industrial and commercial establishments in the territory of one of the States of

the Union are assimilated with the subjects or citizens of the contracting State.

ART. 4. Whosoever has in regular form made an application for a patent of invention, or the registration of a design or industrial model, or of a manufacturing or trade-mark, in one of the contracting States, will enjoy a right of priority during the delays hereafter determined, for the purpose of making the application or registration in the other States, reserving always the rights of third parties.

Consequently the application subsequently made for a patent, or the said registrations, before the expiration of the delays, hereinafter mentioned, can not be invalidated by any facts that have taken place in the interval, say, especially any other application or registration, by the publication of the invention or the working of the same, by the selling of copies of the design or of the model, or of the trade-mark.

The delays of priority mentioned above will be twelve months for patents of invention, four months for designs or industrial models and also for manufacturing and trade-marks.

ART. 4a. The patents applied for in the different contracting States by persons admitted to the benefits of the Convention at the terms of Articles 2 and 3, will be independent of the patents obtained for the same invention in the other States, whether belonging to the Union or not.

This stipulation will apply to patents existing already at the time the Convention comes into force.

The same will apply, in case of new States joining the Union, as regards the existing patents, on both sides, at the time of joining.

ART. 5. The introduction by the patentee into the country where the patent has been granted, of articles manufactured in any of the States of the Union, will not involve its forfeiture.

Nevertheless, the patentee will remain under the obligation of working his patent in accordance with the laws of the country, where he introduces the patented articles.

ART. 6. Any industrial or commercial trade-mark, registered in a regular manner in the country of its origin, will be admitted for registration and protected as such in all the other countries of the Union.

The country in which the party registering the trade-mark has his principal establishment will be considered the country of origin.

If this principal establishment is not located in any of the countries of the Union, the country to which the said party belongs will be considered the country of origin.

The registration may be refused in case the object to which it has reference is contrary to morals or public order.

ART. 7. The nature of the product to which the trade-mark is to be affixed can in no case form an obstacle to the registration of the trade-mark.

ART. 8. The commercial name will be protected in all the countries of the Union, without the obligation of registration, whether it forms part of an industrial or commercial trade-mark or not.

ART. 9. Any product bearing illicitly a trade-mark or a commercial name may be seized on importation into those States of the Union in which this trade-mark or commercial name is entitled to legal protection.

The seizure will take place at the request either of the proper public officer or of the interested party, in accordance with the interior legislation of each State.

In the States the legislation of which does not allow seizure on importation, this seizure may be replaced by a prohibition of importation.

The authorities are not bound to effect seizure in case of transit.

ART. 10. The stipulations of the preceding article will be applicable to any product bearing falsely, as indication of origin, the name of a definite locality, if this indication is added to a fictitious or borrowed commercial name, with fraudulent intentions.

As interested party will be considered any producer, manufacturer or merchant, engaged in the production, the manufacture or the selling of the product, and established either in the locality falsely indicated, as place of origin, or in the district where this locality is situated.

ART. 10a. Those belonging to the Convention (Arts. 2 and 3) will enjoy in all the States of the Union the same protection against dishonest competition as is afforded to natives.

ART. 11. The high contracting parties will afford temporary protection, in accordance with the legislation of each country, to patentable inventions, designs or industrial models, as well as to industrial and commercial trade-marks for the products, which may be shown at official international exhibitions, or those officially recognized and organized on the territory of one of same.

ART. 12. Each of the high contracting parties undertakes to establish a service of industrial protection and a central depot for communicating to the public patents of inventions, designs, or industrial models and trade-marks.

ART. 13. An international office will be organized under the title of "International Office of the Union for the Protection of Industrial Property."

This office, the expenses of which will be borne by the administrations of all the contracting States, will be placed under the high

authority of the Superior Administration of the Swiss Confederation and will work under its supervision. Its powers will be mutually determined between the States of the Union.

ART. 14. The present Convention will be submitted to periodical revisions, with a view to introducing improvements of a nature calculated to make the system of the Union more perfect. To this effect the conferences will successively take place in one of the contracting States between the delegates of the said States.

ART. 15. It is understood that the high contracting parties reserve to themselves, respectively, the right of making separately amongst themselves private arrangements for the protection of industrial property, provided that such arrangements do not contravene in any way against the stipulations of the present Convention.

ART. 16. States that have not taken part in this Convention will be admitted to membership at their request.

This membership will be notified by diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It will carry with it, by full right, adhesion to all the clauses and admission to all the advantages stipulated by the present Convention and will come into effect one month after the forwarding of the notification by the Swiss Government to the other States of the Union, unless some other subsequent date should have been stated by the adhering State.

ART. 17. The execution of the mutual undertakings contained in the present Convention is subordinated, as far as may be required, to the fulfilling of the formalities and rules established by the constitutional laws of those of the high contracting parties that are bound to instigate their application, which they undertake to do with as little delay as possible.

ART. 18. The present Convention will be carried into effect within a delay of one month, commencing from the exchange of the ratifications, and will remain in force for an indefinite period up to the expiration of one year from the day on which notice of its discontinuance may be given.

This notice of discontinuance must be addressed to the Government charged with the receiving of adhesions. It will only influence the State that has given the said notice, the Convention remaining in force as regards the other contracting parties.

ART. 19. The present Convention will be ratified and the ratifications exchanged in Paris within the delay of one year at the outside.

In witness whereof the respective plenipotentiaries have signed it and affixed their seals.

PROTOCOL OF THE CLOSE.

At the moment of proceeding to sign the concluded Convention of the present date between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, and Switzerland, for the protection of industrial property, the undersigned plenipotentiaries have agreed upon as follows:

1. The words *industrial property* are to be understood in their broadest acceptance, in the sense that they apply not only to the products of industry, properly speaking, but also to products of agriculture (wines, grain, fruits, cattle, etc.) and to mineral products delivered to commerce (mineral waters, etc.).

2. Under the name of "patents of invention" are comprised the different kinds of industrial patents admitted by the legislations of the contracting States, such as patents of importation, patents of improvement, etc.

3. It is mentioned that the final stipulation of Article 2 of the Convention is in no way prejudicial to the legislation of each of the contracting States as regards the procedure practiced before the courts and the competency of those courts.

3a. The patentee in each country can only have his patent forfeited on account of its not having been worked after a minimum delay of three years, lasting from the application in the country in question, and in case the patentee does not justify the causes of his inaction.

4. The first paragraph of Article 6 is to be understood in the sense that no trade-mark can be excluded from protection in any of the States of the Union by the fact alone that it does not comply from the point of view of the signs of which it is composed, with the conditions of the legislation of that State, provided it complies on that point with the legislation of the country of its origin and it has been duly registered in the latter country. Saving this exception, which only concerns the form of the mark and under reserve of the stipulations of the other articles of the Convention, the interior legislation of each of the States will be applied in each case.

In order to avoid all false interpretation, it is understood that the use of public armorial bearings and insignia may be considered as contrary to public order, in the sense of the final paragraph of Article 6.

5. The organization of the special service of industrial property, mentioned in Article 12, will comprise as far as possible the publication in each State of an official periodical paper.

6. The expenses of the International Office, instituted as per Article 13, will be borne mutually by the contracting States. They are not, in any case, to exceed the sum of sixty thousand francs per year.

In order to determine the contributive portion of each of the States toward the total sum of the expenses, the contracting States and those that will ultimately become members of the Union will be divided into six classes, each contributing in the proportion of a certain number of units, viz.:

	Units.		Units.
First class-----	25	Fourth class-----	10
Second class-----	20	Fifth class-----	5
Third class-----	15	Sixth class-----	3

These coefficients will be multiplied by the number of the States of each class, and the sum of the products thus obtained will supply the number of units by which the total expense is to be divided. The quotient will give the amount of the outlay unit.

The contracting States are classed as follows, in view of the division of the expenses:

First class—France, Italy.	Fourth class—The Netherlands.
Second class—Spain.	Fifth class—Servia.
Third class—Belgium, Brazil, Portugal, Switzerland.	Sixth class—Guatemala, Salvador. ¹

The Swiss administration supervises the expenses of the International Office, advances the needful funds, and makes up the yearly account, which will be forwarded to all the other administrations.

The International Office will centralize the information of whatever nature with reference to the protection of international property and will combine same into general statistics to be distributed to all the administrations. It will study the common usefulness which interests the Union and will draw up, with the aid of the documents which are placed at its disposal by the different administrations, a periodical in the French language on the questions concerning the object of the Union.

The numbers of the periodical, the same as all documents published by the International Office, will be distributed amongst the administrations of the States of the Union in proportion to the number of the above-mentioned contributive units. Any supplementary copies and documents which may be asked for, either by the said administrations or by societies or individuals, will be paid for apart. The International Office must hold itself always at the disposal of the members of the Union, in order to supply to them on the questions relating to the international service of industrial property the special information which they may require.

¹ Guatemala and Salvador are no longer members of the Union. On the other hand, the States which have become members since 1883, have been ranked at their request in the following classes: Denmark, fourth class; Republic of Domingo, sixth class; United States of America, first class; Great Britain, first class; Japan, second class; Norway, fourth class; Sweden, third class; Tunis, sixth class.

The administration of the country where the next conference is to be held will prepare, with the assistance of the International Office, the work of that conference.

The manager of the International Office will assist at the sittings of the conferences and will take part in the discussions, however, without deliberative vote. He will make a yearly report about his management, which will be communicated to all the members of the Union.

The official language of the International Office will be the French language.

7. The present closing protocol, which will be ratified at the same time as the convention concluded on this day's date, will be considered as forming an integral part of this convention and will have the same force, value, and duration.

In witness whereof the undersigned plenipotentiaries have drawn up this present protocol.

II. ARRANGEMENT OF APRIL 14, 1891.

CONCERNING THE INTERNATIONAL REGISTRATION OF COMMERCIAL AND MANUFACTURING TRADE-MARKS WITH THE ALTERATIONS AND ADDITIONS MADE THEREIN BY THE BRUSSELS CONFERENCE.

Arrangement:

Signature, April 14, 1891, at Madrid.

Deposition of ratifications, June 15, 1892, at Madrid.

Coming into force, July 15, 1902, at Madrid.

Supplementary act:

Signature, December 14, 1900, at Brussels.

Deposition of ratifications (closure of official report), June 14, 1902, at Brussels.

Coming into force, September 14, 1902.

LIST OF STATES WHICH ARE MEMBERS OF THE RESTRICTED UNION.

Belgium, since the arrangement came into force.

Spain, since the arrangement came into force.

France, with Algeria and colonies, since the arrangement came into force.

Switzerland, since the arrangement came into force.

Tunis, since the arrangement came into force.

Holland, with the Dutch East Indies, Surinam, and Curacao, from March 1, 1893.

Portugal, with the Azores and Madeira, from October 31, 1893.

Italy, from October 15, 1894.

Brazil, from October 3, 1896.

The undersigned plenipotentiaries of the States enumerated above and in virtue of Article 15 of the International Convention dated March 20, 1883, for the protection of industrial property, have by mutual agreement, subject to ratification, concluded the following arrangement.

ARTICLE 1. The subjects or citizens of each of the contracting States may insure in all the other States the protection of their manufacturing or commercial trade-marks which have been accepted and deposited in the country of their origin subject to the said marks being deposited at the International Bureau in Berne through the agency of the Government of the said country of origin.

ART. 2. The subjects or citizens of other States which have not joined in the present arrangement are on the same footing as the subjects or citizens of the contracting States provided that they, on the territory of the restricted Union constituted by the said arrangement, satisfy the conditions set forth in Article 3 of the general Convention.

ART. 3. The International Bureau will at once register the marks deposited in accordance with Article 1, and will give notice of such registration to the contracting States. The marks so registered will be published in a supplement to the journal of the International Bureau by means of a block furnished by the depositor.

If the deponent claims the color to be a distinctive feature of his mark he shall be bound :

1. To declare this and to attach to his deposit a description in which the color is mentioned.

2. To attach to his claim copies of the said marks in colors, which will be attached to the notifications made by the International Bureau. The number of these copies will be fixed by the regulation as to the manner of execution. In view of the publicity to be given in the various States to the registered marks, each administration will receive gratis from the International Bureau as many copies of the above-mentioned publication as it may choose to ask for.

ART. 4. Dating from the date of registration so effected at the International Bureau the protection in each of the contracting States will be just the same as if the mark had been first deposited in such State.

ART. 4A. When a mark already deposited in one or more of the contracting States has been afterwards registered at the International Bureau in the name of the same holder or his representative, the international registration will be considered as substituted for the earlier national registrations without prejudice to any rights acquired in connection with the latter.

ART. 5. In those countries where the laws authorize it, the administrations to whom the International Bureau shall notify the registration of a mark shall be entitled to declare that protection can not be granted to this mark in their territory. Such refusal can not be disputed except under the conditions applicable in virtue of the Convention of March 20, 1883, to a mark deposited for national registration.

They must exercise this power within the period fixed by their national law and at latest, within the year of the notification mentioned in Article 3, stating at the same time to the International Bureau the motives for their refusal.

The said declaration so notified to the International Bureau will be at once forwarded by the latter to the administration of the country of origin and to the owner of the mark. The party interested will have the same means of appeal as if the mark had been directly deposited by him in the country where protection is refused.

ART. 5A. The International Bureau will deliver to any person making the request, subject to a fee fixed by regulation, a copy of the memoranda entered in the register relating to any particular mark.

ART. 6. The protection resulting from registration at the International Bureau will last twenty years from the date of registration but may not be claimed on behalf of a mark no longer under legal protection in the country of origin.

ART. 7. Registration may always be renewed in accordance with the provisions of Articles 1 and 3. Six months previous to the expiration of the period of protection the International Bureau will give official intimation thereof to the administration of the country of origin and the owner of the mark.

ART. 8. The administration of the country of origin will fix at its pleasure and collect on its own behalf a fee to be claimed from the owner of the mark who asks for international registration. To this fee will be added an international charge of 100 francs for the first mark and 50 francs for every other mark deposited at the same time by the same owner. The annual proceeds of this charge will be divided equally among the contracting States through the agency of the International Bureau after deduction of the common expenses necessary for the execution of this agreement.

ART. 9. The administration of the country of origin will notify to the International Bureau any annulations, erasures, renunciations, transmissions, and other changes that may take place in the ownership of the mark.

The International Bureau will register these alterations and give immediate notice thereof in its journal to the contracting administrations and the public.

ART. 9A. When a mark entered in the International Register is transmitted to a person settled in a contracting State other than the country of origin of the mark, the transmission shall be notified to the International Bureau by the administration of the said country of origin. The International Bureau shall register the transmission and after receiving the assent of the administration to which the new holder is subject it will give notice thereof to the other administrations and publish the same in its journal.

It is not the purpose of this provision to modify the law of the contracting State which prohibits the transfer of the mark unless accompanied by the simultaneous cession of the industrial or commercial concern whose products it distinguishes.

No transmission will be registered of any mark entered on the International Register if made in favor of a person not established in one of the signatory countries.

ART. 10. The administration will settle by mutual agreement the details relating to the execution of the present arrangement.

ART. 11. The States of the Union for the protection of industrial property which have not taken part in the present arrangement will be allowed on their request to join the same in the form provided by Article 16 of the Convention of March 20, 1883, for the protection of industrial property.

As soon as the International Bureau is informed that a State has joined the present arrangement it will forward to the administration of such State in conformity with Article 3 a complete list of the marks then enjoying international protection.

This list will of itself insure for the said marks the benefit of previous regulations in the territory of the State so joining and will involve the delay of one year, during which the administration interested may make the declaration provided in Article 5.

ART. 12. The present arrangement will be ratified and the ratifications of the same exchanged at Madrid within a period of six months at latest.

It will come into force in one month from the exchange of ratifications and shall have the same force and duration as the Convention of March 20, 1883.

In witness whereof the plenipotentiaries of the States above enumerated have signed the present arrangement.

III. REGULATION.

FOR THE EXECUTION OF THE ARRANGEMENT OF APRIL 14, 1891, CONCERNING THE REGISTRATION OF INDUSTRIAL OR COMMERCIAL TRADE-MARKS.

[Text approved by all the administrations in 1903.]

ARTICLE 1. All requests for the purpose of securing the international registration of an industrial or commercial trade-mark in

virtue of the arrangement of April 14, 1891, revised December 14, 1900, must be addressed by the owner of the mark to the administration of the country of origin in the form which the latter may prescribe.

The administration of the country of origin will fix at its pleasure and collect a fee the amount of which will remain in its possession. To this fee will be added an international charge fixed as follows:

1. In the case of the deposit of a single mark, one hundred francs.
2. In the case of several deposits, one hundred francs for the first mark and fifty francs for each of the other marks deposited at the same time by the same owner.

ART. 2. After having ascertained that the mark is properly registered, the administration of the country of origin will forward to the International Bureau of Industrial Property in Berne:

(A) A request for registration, in duplicate, containing a typographical representation of the mark, and stating:

1. The name of the owner of the mark.
2. His address.
3. The manufactures or goods to which the mark applies.
4. The date of registration in the country of origin.
5. The order number of the mark in the country of origin.

(B) A block of the mark for the typographical reproduction of the latter in the publication which will be made of it by the International Bureau. This block must reproduce the mark exactly, so as to show up all details in the most conspicuous manner. It must not be less than 15 millimetres or more than 10 centimetres, either in length or breadth. The exact thickness of the block must be 24 millimetres, corresponding to the height of the printed characters. This block will be kept at the International Bureau.

(C) If the deponent claims the color as a distinctive feature of his mark, forty copies on paper of a colored reproduction of the mark.

In this case the request must contain a brief description in French, mentioning the color. Should neither one nor the other of the above-mentioned conditions be observed, the International Bureau will proceed with the registration of the mark and notification thereof in accordance with the particulars received.

(D) A postal order for the amount of the international charge.

The request for registration will be drawn up in accordance with the form attached to the present regulation or any other form which the administrations of the contracting States may by common agreement subsequently adopt. The International Bureau will forward the necessary forms to the administrations gratuitously.

ART. 3. The International Bureau will proceed without delay to enter the mark in a register kept for that purpose. This register will contain the following particulars:

1. The date of registration at the International Bureau.
2. The date of notification to the contracting administrations.
3. The order number of the mark.
4. The name of the owner of the mark.
5. His address.
6. The manufactures or goods to which the mark is applied.
7. The country of origin of the mark.
8. The date of registration in the country of origin.
9. The order number of the mark in the country of origin.
10. Memoranda relating to refusal of protection, transmission (Arts. 9 and 9 *bis* of the arrangement), or erasure of the mark.

ART. 4. As soon as the entry is made in the register the International Bureau will certify on the two copies of the request that the registration has been duly effected and will affix thereon its signature and seal. One of these copies will be filed among the records of the Bureau and the other will be returned to the administration of the country of origin.

Furthermore, the International Bureau will notify to the administrations the registration so effected by sending to each of them a typographical reproduction of the mark and informing them of:

1. The date of registration at the International Bureau.
2. The order number of the mark.
3. The name and address of the deponent.
4. The manufactures or merchandise to which the mark is applied.
5. The country of origin of the mark as well as the date of registration and order number in said country.

In the case provided by Article 2 under letter C, the aforesaid notification shall mention, in addition, the deposit in colors, and will be accompanied by a copy of the reproduction of the mark in colors.

ART. 5. The International Bureau will then see to the publication of the mark in a supplement of its journal which will consist of the reproduction of the mark, accompanied by the details mentioned in Article 4, paragraph 2; and, if necessary, the description provided under letter C of Article 2.

At the commencement of every year the International Bureau will issue a table giving in alphabetical order per contracting State the names of the owners of the marks published during the course of the previous year.

Each administration will receive gratuitously from the International Bureau the number of copies it may choose to ask for of the supplement containing the publications relating to International Registration.

ART. 6. The declaration notified to the International Bureau in the terms of Article 5 of the arrangement (non-admission of the mark to protection in a given country) will be at once forwarded by the

bureau to the administration of the country of origin and to the owner of the mark.

ART. 6 BIS. The fee provided for under Article 5 *bis* of the arrangement for copies or extracts from the register is fixed at two francs per copy or extract.

ART. 7. Such changes as may have taken place in the ownership of a mark, and which have been made the object of the modification mentioned in Article 9 and 9 *bis* of the arrangement, will be entered in the register of the International Bureau except in such cases where, in the terms of the third paragraph of the latter article, transmission can not be registered. The International Bureau will in its turn notify to the contracting administrations the registered alterations, and will publish them in its journal, keeping in view the provisions of the first paragraph of Article 9 *bis* when the new owner is established in a contracting State other than the country of origin of the mark.

ART. 8. Six months before the expiration of the period of protection of twenty years the International Bureau will send an official notice to that effect to the administration of the country of origin and the owner of the mark.

The formalities to be observed in the renewal of the international registration will be the same as if it were a question of a new registration excepting that it will no longer be necessary to send a block.

ART. 9. At the commencement of each year the International Bureau will make out a statement of charges of all kinds which have been occasioned during the previous year by the international registration of marks. The amount of these charges will be deducted from the total sums received from the administrations by way of fee for international registration, and the excess of receipts will be divided in equal shares between all the contracting States.

ART. 10. The complete list prescribed by Article 11 of the arrangement will contain the same particulars as the modification under Article 4 of the present regulations.

ART. 11. The present regulation will continue in force for the same length of time as the arrangement to which it refers.

The contracting administrations may at any time introduce therein by mutual agreement such modifications as may seem necessary to them in accordance with the provisions of Article 10 of the said arrangement.

IV. ARRANGEMENT OF APRIL 14, 1891.

CONCERNING THE SUPPRESSION OF FALSE STATEMENTS OF ORIGIN OF MERCHANDISE.

Signature, April 14, 1891, at Madrid.

Deposit of ratifications, June 15, 1892, at Madrid.

Coming into force, July 15, 1893.

LIST OF MEMBERS AT THE RESTRICTED UNION.

Spain, France, with Algeria and Colonies, Great Britain, Switzerland and Tunis, since the arrangement came into operation.

Portugal, with the Azores and Madeira, since October 31, 1893.

Brazil, since October 3, 1893.

ARTICLE 1. All products bearing a false statement of origin in which one of the contracting States or some locality situated in one or other of them is mentioned directly or indirectly as the country or place of origin shall be seized on importation into any one of the said States.

The seizure may also be effected in the State where the false declaration of origin may have been affixed, or in that State into which the product bearing such false declaration shall have been introduced.

If the laws of a State do not allow of the seizure on importation, such seizure to be substituted by a prohibition to import.

If the laws of a State do not allow of a seizure inland, such seizure to be substituted by acts and measures which the laws of the said State provide in such cases for the benefit of natives.

ART. 2. The seizure will be made either at the request of the proper public officer or an interested party, individual, or company, in accordance with the internal laws of each State.

The authorities shall not be called upon to effect the seizure during transit.

ART. 3. The present provisions do not prevent the seller putting his name or address on the products coming from a country other than that of sale, but in that case the address or name must be accompanied by a precise statement in conspicuous characters of the country or place of manufacture or production.

ART. 4. The tribunals of each country will have to decide what are the appellations which, from their generic character, are outside the provisions of this arrangement, the district appellations of the origin of wine products not being, however, included in the reservation laid down by this article.

ART. 5. The States of the Union for the protection of industrial property which have not taken part in the present arrangement will be admitted at their request to join the same in the form prescribed by Article 16 of the Convention of March 20, 1883, for the protection of industrial property.

ART. 6. The present arrangement will be ratified and the ratifications of the same exchanged at Madrid within a period of six months at the latest.

It will come into operation in one month from the date of the exchange of ratifications and will have the same force and duration as the Convention of March 20, 1883.

In witness whereof the plenipotentiaries of the States enumerated above have signed the present arrangement.

FOURTH INTERNATIONAL CONGRESS OF AMERICAN STATES.

CONVENTIONS RELATING TO PATENTS, TRADE-MARKS, DESIGNS, ETC.

DEPARTMENT OF THE INTERIOR,
UNITED STATES PATENT OFFICE,
Washington, D. C., February 23, 1911.

The following conventions relating to patents, designs, and industrial models, trade-marks, and literary and artistic copyrights, which were prepared at the request of the Secretary of State by the Commissioner of Patents, who was designated by the President of the United States as the Expert Attaché to the delegation of the United States of America to the Fourth International Congress of American States, were adopted by said Congress, which met at Buenos Ayres June 9 to August 30, 1910, and have been approved by the United States Senate.

EDWARD B. MOORE,
Commissioner of Patents.

CONVENTION.

Inventions, Patents, Designs, and Industrial Models.

Their Excellencies the Presidents of the United States of America, the Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay, and Venezuela :

Being desirous that their respective countries may be represented at the Fourth International American Conference, have sent thereto the following delegates, duly authorized, to approve the recommendations, resolutions, conventions, and treaties which they might deem advantageous to the interests of America.

(Here follow the names of the plenipotentiaries.)

Who, after having presented their credentials, and the same having been found in due and proper form, have agreed upon the following convention on inventions, patents, designs, and industrial models.

ARTICLE I. The subscribing nations enter into this convention for the protection of patents of invention, designs, and industrial models.

ART. II. Any persons who shall obtain a patent of invention in any of the signatory States shall enjoy in each of the other States all the advantages which the laws relative to patents of invention, designs,

and industrial models concede. Consequently, they shall have the right to the same protection and identical legal remedies against any attack upon their rights, provided they comply with the laws of each State.

ART. III. Any person who shall have regularly deposited an application for a patent of invention or design or industrial model in one of the contracting States shall enjoy, for the purposes of making the deposit in the other States and under the reserve of the rights of third parties, a right of priority during a period of twelve months for patents of invention, and of four months for designs or industrial models.

In consequence the deposits subsequently made in any other of the signatory States before the expiration of these periods can not be invalidated by acts performed in the interval, especially by other deposits, by the publication of the invention or its working, or by the sale of copies of the design or of the model.

ART. IV. When, within the terms fixed, a person shall have filed applications in several States for the patent of the same invention, the rights resulting from patents thus applied for shall be independent of each other.

They shall also be independent of the rights arising under patents obtained for the same invention in countries not parties to this convention.

ART. V. Questions which may arise regarding the priority of patents of invention shall be decided with regard to the date of the application for the respective patents in the countries in which they are granted.

ART. VI. The following shall be considered as inventions: A new manner of manufacturing industrial products, a new machine or mechanical or manual apparatus which serves for the manufacture of said products, the discovery of a new industrial product, the application of known methods for the purpose of securing better results, and every new, original, and ornamental design or model for an article of manufacture.

The foregoing shall be understood without prejudice to the laws of each State.

ART. VII. Any of the signatory States may refuse to recognize patents for any of the following causes:

(a) Because the inventions or discoveries may have been published in any country prior to the date of the invention by the applicant.

(b) Because the inventions have been registered, published, or described in any country more than one year prior to the date of the application in the country in which the patent is sought.

(c) Because the inventions have been in public use, or have been on sale in the country in which the patent has been applied for, one year prior to the date of said application.

(d) Because the inventions or discoveries are in some manner contrary to morals or laws.

ART. VIII. The ownership of a patent of invention comprises the right to enjoy the benefits thereof, and the right to assign or transfer it in accordance with the laws of the country.

ART. IX. Persons who incur civil or criminal liabilities, because of injuries or damage to the rights of inventors, shall be prosecuted and punished in accordance with the laws of the countries wherein the offense has been committed or the damage occasioned.

ART. X. Copies of patents certified in the country of origin, according to the national law thereof, shall be given full faith and credit as evidence of the right of priority, except as stated in Article VII.

ART. XI. The treaties relating to patents of invention, designs, or industrial models, previously entered into between the countries subscribing to the present convention, shall be superseded by the same from the time of its ratification in so far as the relations between the signatory States are concerned.

ART. XII. The adhesion of the American nations to the present convention shall be communicated to the Government of the Argentine Republic in order that it may communicate them to the other States. These communications shall have the effect of an exchange of ratifications.

ART. XIII. A signatory nation that sees fit to retire from the present convention, shall notify the Government of the Argentine Republic, and one year after the receipt of the communication the force of this convention shall cease, in so far as the nation which shall have withdrawn its adherence is concerned.

In witness whereof, the plenipotentiaries have signed the present treaty and affixed thereto the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Ayres on the 20th day of August, in the year 1910, in Spanish, English, Portuguese, and French, and deposited in the ministry of foreign affairs of the Argentine Republic, in order that certified copies be made for transmission to each of the signatory nations through the appropriate diplomatic channels.

(The signatures follow.)

CONVENTION.

Protection of Trade-Marks.

Their Excellencies the President of the United States of America, the Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba,

Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay, and Venezuela;

Being desirous that their respective countries may be represented at the Fourth International American Conference, have sent thereto the following delegates, duly authorized to approve the recommendations, resolutions, conventions, and treaties which they might deem advantageous to the interest of America.

(Here follow the names of the plenipotentiaries.)

Who, after having presented their credentials and the same having been found in due and proper form, have agreed upon the following Convention for the Protection of Trade-Marks.

ARTICLE I. The signatory nations enter into this convention for the protection of trade-marks and commercial names.

ART. II. Any mark duly registered in one of the signatory States shall be considered as registered also in the other States of the Union, without prejudice to the rights of third persons and to the provisions of the laws of each State governing the same.

In order to enjoy the benefit of the foregoing, the manufacturer or merchant interested in the registry of the mark must pay, in addition to the fees or charges fixed by the laws of the State in which application for registration is first made, the sum of fifty dollars gold, which sum shall cover all the expenses of both bureaus for the international registration in all the signatory States.

ART. III. The deposit of a trade-mark in one of the signatory States produces in favor of the depositor a right of priority for the period of six months, so as to enable the depositor to make the deposit in the other States.

Therefore the deposit made subsequently and prior to the expiration of this period can not be annulled by acts performed in the interval, especially by another deposit, by publication, or by the use of the mark.

ART. IV. The following shall be considered as trade-mark: Any sign, emblem, or special name that merchants or manufacturers may adopt or apply to their goods or products in order to distinguish them from those of other manufacturers or merchants who manufacture or deal in articles of the same kind.

ART. V. The following can not be adopted or used as trade-mark: National, provincial, or municipal flags or coats of arms; immoral or scandalous figures; distinctive marks which may have been obtained by others or which may give rise to confusion with other marks; the general classification of articles; pictures or names of persons without their permission; and any design which may have been adopted as an emblem by any fraternal or humanitarian association.

The foregoing provision shall be construed without prejudice to the particular provisions of the laws of each State.

ART. VI. All questions which may arise regarding the priority of the deposit or the adoption of a trade-mark shall be decided with due regard to the date of the deposit in the State in which the first application was made therefor.

ART. VII. The ownership of a trade-mark includes the right to enjoy the benefits thereof and the right of assignment or transfer in whole or in part of its ownership or its use in accordance with the provisions of the laws of the respective States.

ART. VIII. The falsification, imitation, or unauthorized use of a trade-mark, as also the false representation as to the origin of a product, shall be prosecuted by the interested party in accordance with the laws of the State wherein the offense is committed.

For the effects of this article, interested parties shall be understood to be any producer, manufacturer, or merchant engaged in the production, manufacture, or traffic of said product, or in the case of false representation of origin, one doing business in the locality falsely indicated as that of origin, or in the territory where said locality is situated.

ART. IX. Any person in any of the signatory States shall have the right to petition and obtain in any of the States, through its competent judicial authority, the annulment of the registration of a trade-mark, when he shall have made application for the registration of that mark, or of any other mark, calculated to be confused, in such State, with the mark in whose annulment he is interested, upon proving:

(a) That the mark the registration whereof he solicits has been employed or used within the country prior to the employment or use of the mark registered by the person registering it or by the persons from whom he has derived title;

(b) That the registrant had knowledge of the ownership, employment, or use in any of the signatory States of the mark of the applicant the annulment whereof is sought prior to the use of the registered mark by the registrant or by those from whom he has derived title;

(c) That the registrant had no right to the ownership, employment, or use of the registered mark on the date of its deposit;

(d) That the registered mark had not been used or employed by the registrant or by his assigns within the term fixed by the laws of the State in which the registration shall have been made.

ART. X. Commercial names shall be protected in all the States of the Union, without deposit or registration, whether the same form part of a trade-mark or not.

ART. XI. For the purposes indicated in the present convention a Union of American Nations is hereby constituted, which shall act through two international bureaus established one in the city of Habana, Cuba, and the other in the city of Rio de Janeiro, Brazil, acting in complete accord with each other.

ART. XII. The international bureaus shall have the following duties:

1. To keep a register of the certificates of ownership of trade-mark issued by any of the signatory States.

2. To collect such reports and data as relate to the protection of intellectual and industrial property and to publish and circulate them among the nations of the union, as well as to furnish them whatever special information they may need upon this subject.

3. To encourage the study and publicity of the questions relating to the protection of intellectual and industrial property; to publish for this purpose one or more official reviews, containing the full texts or digest of all documents forwarded to the bureaus by the authorities of the signatory States.

The Governments of said States shall send to the International American Bureaus their official publications which contain the announcements of the registrations of trade-marks, and commercial names, and the grants of patents and privileges as well as the judgments rendered by the respective courts concerning the invalidity of trade-marks and patents.

4. To communicate to the Governments of the Union any difficulties or obstacles that may oppose or delay the effective application of this convention.

5. To aid the Governments of the signatory States in the preparations of international conferences for the study of legislation concerning industrial property, and to secure such alterations as it may be proper to propose in the regulations of the Union, or in treaties in force to protect industrial property. In case such conferences take place, the directors of the bureaus shall have the right to attend the meetings and there to express their opinions, but not to vote.

6. To present to the Governments of Cuba and of the United States of Brazil, respectively, yearly reports of their labors, which shall be communicated at the same time to all the Governments of the other States of the Union.

7. To initiate and establish relations with similar bureaus and with the scientific and industrial associations and institutions for the exchange of publications, information, and data conducive to the progress of the protection of industrial property.

8. To investigate cases where trade-marks, designs, and industrial models have failed to obtain the recognition of registration provided

for by this Convention, on the part of the authorities of any one of the States forming the Union, and to communicate the facts and reasons to the Government of the country of origin and to interested parties.

9. To cooperate as agents for each one of the Governments of the signatory States before the respective authorities for the better performance of any act tending to promote or accomplish the ends of this Convention.

ART. XIII. The bureau established in the city of Habana, Cuba, shall have charge of the registration of trade-marks coming from the United States of America, Mexico, Cuba, Haiti, the Dominican Republic, El Salvador, Honduras, Nicaragua, Costa Rica, Guatemala, and Panama.

The bureau established in the city of Rio de Janeiro shall have charge of the registration of trade-marks coming from Brazil, Uruguay, the Argentine Republic, Paraguay, Bolivia, Chili, Peru, Ecuador, Venezuela, and Colombia.

ART. XIV. The two International Bureaus shall be considered as one, and for the purpose of the unification of the registrations it is provided:

(a) Both shall have the same books and the same accounts, kept under an identical system.

(b) Copies shall be reciprocally transmitted weekly from one to the other of all applications, registrations, communications, and other documents affecting the recognition of the rights of owners of trade-marks.

ART. XV. The International Bureaus shall be governed by identical regulations, formed with the concurrence of the Governments of the Republic of Cuba and of the United States of Brazil and approved by all the other signatory States.

Their budgets, after being sanctioned by the said Governments, shall be defrayed by all the signatory States in the same proportion as that established for the International Bureau of the American Republics at Washington, and in this particular they shall be placed under the control of those Governments within whose territories they are established.

The International Bureaus may establish such rules of practice and procedure, not inconsistent with the terms of this Convention, as they may deem necessary and proper to give effect to its provisions.

ART. XVI. The Governments of the Republic of Cuba and of the United States of Brazil shall proceed with the organization of the Bureaus of the International Union as herein provided, upon the ratification of this Convention by at least two-thirds of the nations belonging to each group.

The simultaneous establishment of both bureaux shall not be necessary; one only may be established if there be the number of adherent Governments provided for above.

ART. XVII. The treaties on trade-marks previously concluded by and between the signatory States shall be substituted by the present Convention from the date of its ratification, as far as the relations between the signatory States are concerned.

ART. XVIII. The ratifications or adhesion of the American States to the present Convention shall be communicated to the Government of the Argentine Republic, which shall lay them before the other States of the Union. These communications shall take the place of an exchange of ratifications.

ART. XIX. Any signatory State that may see fit to withdraw from the present Convention shall so notify the Government of the Argentine Republic, which shall communicate this fact to the other States of the Union, and one year after the receipt of such communication this Convention shall cease with regard to the State that shall have withdrawn.

In witness whereof the plenipotentiaries and delegates sign this convention and affix to it the seal of the Fourth International American Conference.

Made and signed in the city of Buenos Ayres on the 20th day of August, in the year 1910, in Spanish, English, Portuguese, and French, and filed in the Ministry of Foreign Affairs of the Argentine Republic in order that certified copies may be made, to be forwarded through appropriate diplomatic channels to each one of the signatory nations.

(The signatures follow.)

AUSTRIA.

[Law of the 11th of January, 1897, for the Protection of Inventions (Patent Law).]

With the consent of both Houses of the Imperial Parliament I decree as follows:

I. GENERAL PROVISIONS.

INVENTIONS EXCLUDED FROM PROTECTION BY PATENT.

SECTION 1. New inventions which allow of industrial application shall be protected under this law.

Patents shall be granted for the same upon application.

INVENTIONS EXCLUDED FROM PROTECTION BY PATENT.

SEC. 2. Patents shall not be granted:

1. For inventions the object or use of which is contrary to law or morality or injurious to health, or which are obviously intended to mislead the public.

2. For scientific doctrines or principles as such.

3. For inventions the subject of which is reserved for a State monopoly.

4. For inventions concerning—

(a) Articles for human food and consumption,

(b) Preparations for medicine or disinfection,

(c) Products which are obtained by chemical methods,

in so far as the inventions mentioned in paragraph 4, (a) to (c), do not relate to a definite technical process for the production of such articles.

NOVELTY.

SEC. 3. An invention shall not be regarded as new if before the date of its application under this law it already—

(1) Have been so described in public prints that its use appears to be thereby rendered possible by persons versed in the art; or

(2) Have been so openly used, openly exhibited or produced in the country that its use by persons versed in the art appears thereby possible; or

(3) Have formed the subject of a patent that has been in force in the purview of this law and has become common property.

The Government shall be empowered to grant to foreign States the favor (to be notified in the Patent Journal, [sec. 44]) that the patent specifications officially published by them shall not be considered equivalent to public prints in the sense of this law from the date of their publication, but only after a term of at most six months.

CLAIM TO A PATENT.

SEC. 4. The author of an invention, or his legal successors, shall alone have a claim to the grant of a patent. Until the contrary be shown, the first applicant shall be regarded as the author of the invention. A later application shall give no claim to a patent if the invention have already been the subject of a patent or privilege or the subject of a prior application under consideration which eventuates in the grant of a patent or privilege. If these assumptions be only partially substantiated the later applicant shall only have the right to the grant of a correspondingly restricted patent.

If the improvement or other further development of an invention already protected by patent, or for which application for a patent has been made which leads to the grant of the same, be applied for by the owner of the mother patent or his legal successors, it shall be open to him to obtain for the improvement either an original patent or a patent of addition dependent on the mother patent.

If it appear that the industrial use of an invention for which a patent has been applied for presupposes the entire or partial use of an already patented invention, the patent applied for shall be granted with the condition that it is dependent on another patent to be definitely designated (declaration of dependency). This condition shall also be inserted in the notice concerning the grant of the patent, and in the patent document.

SEC. 5. The first applicant shall, however, have no claim to the grant of a patent if he be not the author of the invention applied for, or his legal successor, or if the essential contents of his application have been taken without consent from the description, drawings, models, tools, or apparatus of another, or from a process used by him, and if, in the former case, a claim be raised by the author or his legal successor, and, in the latter, by the party prejudiced.

If the invention have come into the possession of a person in succession to another who obtained it without permission, then in case of contest the earlier possessor shall rank before the later.

Workmen, officials, and Government servants shall be deemed the originators of the inventions made by them in service, unless otherwise determined by a deed of agreement or the rules of the service.

Conditions of contract or service by which it is sought to withhold an official or servant in an industrial undertaking from the due benefit of the invention made by him in service shall have no legal validity.

PROTECTION OF INVENTIONS IN EXHIBITIONS.

SEC. 6. Inventions which are placed on view in native exhibitions may, from the date of their admittance to the exhibition until three months after the close of the exhibition, be granted provisional protection by patent under easier conditions.

The grant, as also the settling of the conditions of this protection, shall be determined by the regulating powers of the Minister of Commerce.

REPRESENTATIVE.

SEC. 7. Any person not residing in the country may only claim the grant of a patent and the rights resulting therefrom if he have a representative residing in the country.

The name and residence of this representative, and also every change in the representation, shall, together with the power of attorney, be lodged at the Patent Office for entry in the register of patents.

It shall be determined by regulations what the power to be deposited at the Patent Office shall contain.

The place at which the representative has his residence, and in default of the same the place at which the Patent Office has its seat, shall serve for the business concerning the patent as residence of a patentee not residing in the country.

Delivery to the representative shall have the same legal effect as if it had been to the patentee himself.

EFFECT OF THE PATENT.

SEC. 8. The patent has the effect that the patentee shall exclusively be entitled to commercially produce, bring into the market, expose for sale, or use the subject of the invention.

If the patent be granted for a process, the effect shall extend also to the articles made directly by this process.

SEC. 9. The patent shall have no effect against those who already, at the date of the application, have in good faith used the invention in the country, or who have made the necessary preparations for such use (previous user).

Such persons shall be authorized to use the invention for the needs of their own trade in their own or other works.

This right shall only be transferred or inherited together with the business.

The previous user may demand that his privilege shall be acknowledged by the owner of the patent by the drawing up of a document. Should this acknowledgment be refused, the Patent Office shall upon request decide concerning the demand raised, in the manner provided for the opposition process. The granted privilege shall be entered on the patent register at the request of the owner.

SEC. 10. The War Office shall have the right, in agreement with the Minister of Commerce, to, for their needs, make use of, or through their trade agents allow use to be made of, inventions which relate to weapons of war, explosives or munitions, fortifications or ships of war, necessary for the improvement of military craft, without it being possible to enforce as against the War Office any rights arising from the patent granted.

In so far as an agreement is not come to concerning a fair compensation between the owner of the patent and the War Office with the consent of the Minister of Finance, the Minister of Finance shall decide thereon in agreement with the Minister of Commerce and the War Office.

The exercise of the right of use appertaining to the War Office shall not be dependent upon the course of this negotiation.

SEC. 11. If it shall appear, even after the grant of a patent for an invention, that its subject in a certain method of its application is reserved for a State monopoly, the patent shall, with regard to this method of application, have no effect against the Government or War Office.

SEC. 12. A patent shall have no effect against vessels or vehicles, and against fittings on vessels or vehicles, which only temporarily come into the country upon occasion of their use in trade.

RELATION OF SEVERAL PATENTEES TO EACH OTHER.

SEC. 13. A patent applied for by several persons as joint owners of the same invention shall be granted to the same without defining their interests.

The legal relations of the joint owners to a patent amongst themselves shall be decided by common law.

The right to grant third persons the use of the invention shall, in case of doubt, belong only to the united joint owners; each for himself shall, however, have the right legally to proceed against infringement of the patent.

TERM OF THE PATENT.

SEC. 14. The term of the patent shall be fifteen years; the currency of this term commences with the date of the notice of the invention in the patent journal (sec. 57.)

Patents of addition shall expire with the mother patent. A patent of addition may, however, expressly be upheld as an independent patent if the mother patent be withdrawn, declared void, or renounced. Its term shall then be determined by the date of commencement of the mother patent. With regard to the date on which the yearly taxes fall due, and the amount thereof, the patent of addition which has become independent shall take the place of the mother patent.

EXPROPRIATION.

SEC. 15. If the interest of the armed forces, or the public welfare, or other cogent interest of State require that an invention for which a patent has been applied for or already granted shall be wholly or partially used by the Government or War Office, or given up to the public use, the Government or War Office shall be authorized wholly or partially to expropriate this patent or the right to the use of the invention, against suitable indemnity determined by the judgment of the political district court in Vienna, and to use or to give up to general use the invention upon the ground of the judgment of expropriation.

If there be danger in delay, the Government or War Office may, on preliminary permission of the said political district court, and on the ground of a presented request for expropriation, at once use or give up to public use the invention, upon condition, however, that this be ratified by a subsequent judgment of expropriation.

Besides the patentee, those persons also who are already legally entitled to the use of the invention shall, in case they are now deprived of the same, be paid a suitable compensation out of the State treasury.

With respect to the amount of compensation, it shall be the aim to come to an understanding between the applicant for the patent or the patentee and the possible licensees to use; should such not be brought about, the decision concerning the claim for compensation shall be for the court, with the concurrence, if necessary, of experts. The patentee shall have the right to choose one of the experts. In determining the amount of compensation, in all cases, regard shall only be had to the effect which the expropriation of the patent will have relatively to this country.

The negotiation concerning the amount of compensation shall have no restrictive action on the enjoyment of the right to the use of the invention to which the Government or War Office lay claim, for itself or for the people.

Interested parties entered in the register of patents shall be immediately informed by the Patent Office of such a claim to a patent.

DEPENDENCE OF THE PATENT ON EXISTING LAWS.

SEC. 16. The grant of a patent shall in no way absolve the owner from the observance of legal provisions which exist, or may be made, for considerations of public health, safety, or morality, or in the general interests of the State.

SEC. 17. The author of an invention, or his legal successor, in so far as he limits himself to the use of the patented invention, shall, without prejudice to the provisions of section 16, not be bound by the prescriptions in force relating to the entry into trades.

TRANSFERS.

SEC. 18. Rights arising from the application for a patent and patent rights shall pass to the heirs; this right shall not be escheated.

Both rights may be transferred to another, wholly or in any proportions, by legal deed, judicial decision, or testamentary disposition.

Registration of the transfer (sec. 23) necessary for the acquisition of the patent right shall be effected by the Patent Office, upon judicial requisition, or upon a written request for transfer by one of the parties concerned. The transfer document shall be produced, together with the request for transfer; the signature of the assignor upon the former shall, if it do not possess the character of a public document, be authenticated.

The request for transfer and the transfer document shall undergo examination at the Patent Office as to form and contents.

If the right arising out of an application for a patent be transferred, the patent shall, if granted, and if both the request for transfer and the transfer document be in accordance with the aforesaid requirements, be issued to the legal successor of the applicant.

MORTGAGE.

SEC. 19. The patent right may form the subject of a mortgage.

VOLUNTARY LICENSES.

SEC. 20. The patentee shall be entitled to make over the use of the invention to third parties for the entire province of the patent, or for a portion of the same, with or without the exclusion of other licenses to use (license).

COMPULSORY LICENSES.

SEC. 21. The owner of a patent for an invention which, without using an invention previously patented, can not be turned to account,

shall be entitled to demand from the owner of the latter the grant of a license to use the same, if from the date of the publication of the grant of the earlier patent in the patent journal three years have elapsed, and the later invention be of considerable commercial importance.

A license granted shall entitle the owner of the earlier patent also on his side to demand a license from the subsequent patentee, which shall empower him to use the later invention, under the condition, however, that this latter stands in positive connection with the earlier invention.

If it shall appear that the grant to another of the permission to use an invention be in the public interest, any one, even if the assumptions of paragraphs 1 and 2 do not apply, and if his personal trustworthiness be shown, shall be entitled, after the expiration of three years from the date of the publication of the grant of the patent in the patent journal, to demand from the patentee permission to use the invention for his business.

If in these cases the license be refused by the patentee the Patent Office shall decide concerning the demand made, and shall determine, in case of the grant of the license, the compensation to be given, the guarantee, and also any further conditions of use, regard being had to the nature of the invention and the circumstances of the case.

If the decision be concerning the grant of a license in the public interest, the Patent Office shall obtain the views of the Ministries concerned upon the question of the existence of the public interest, and make these views the basis of its own decision.

The foregoing provisions shall not apply to patents of the Government or War Office.

TRANSFER OF LICENSES.

SEC. 22. A license granted by the patentee or Patent Office shall without the permission of the patentee only be assignable by the licensee to living persons, together with the business for which the license is granted, and shall only then pass by death to the legal successor of the licensee if the undertaking for which the license was granted be carried on by such successor.

EFFECT OF ENTRY IN THE REGISTER OF PATENTS.

SEC. 23. The patent right (sec. 18), the mortgage right, and other rights accruing on patent rights shall be acquired and become effective against third parties on their entry in the register of patents.

The provisions of the civil code shall apply respecting the date of the acquisition of the license rights. As against third parties, the

license rights shall only operate on their entry in the register of patents.

The priority of the aforesaid rights shall be decided by the sequence of the arrival at the Patent Office of the requests for registration, on the assumption that the request leads to registration.

Requests arriving at the same time shall enjoy equal priority.

DUTIES.

SEC. 24. Any person acquiring a patent shall take over the obligations attaching to it which at the date of the lodging of the request for registration at the Patent Office are apparent from the register of patents, or have been duly ordered to be registered.

LITIGATION CAVEATS.

SEC. 25. Suits pending at the courts which concern the ownership of a patent, a mortgage right, as well as any other right accruing on a patent, and also the request for the grant of licenses (sec. 21), the withdrawal, annulment, forfeiture, dependency or decision concerning the relative inefficacy of a patent, may upon request form the subject of a litigation caveat in the register of patents.

The litigation caveat shall have the effect that the decision shall also be fully effective against those persons who only after the date of the arrival at the Patent Office of the request for a litigation caveat have obtained registration in the register of patents.

EXPIRATION.

SEC. 26. A patent shall be void:

1. Provided the payment of the yearly taxes have been properly made, at the latest at the end of the fifteenth year.

2. If the yearly taxes have not been properly paid into the cash office of the Patent Office, or at a Post Office of the country for conveyance to the same.

3. If the patentee renounce the same.

If the renunciation concern only certain portions of the patent, the patent shall be valid in respect of the remaining portions, provided these can still form the subject of an independent patent.

In the cases of expiration caused by effluxion of time (1 and 2) the same shall operate from the day following the expiration of the last year of validity, in the case of renunciation (3) from the day following the giving notice of the renunciation at the Patent Office.

WITHDRAWAL.

SEC. 27. A patent may be wholly or partially withdrawn if the patentee or his legal successor neglect to work, or allow to be worked,

the invention in the country to a suitable extent, or to do everything necessary to insure such working. The withdrawal may in this case take place not earlier than after the expiration of three years from the date of the publication of grant of the patent in the patent journal. This time limit shall not hold good if the patentee or his legal successor, notwithstanding the invention is being worked abroad and the public interest requires working also in the country, continue to satisfy the native demand exclusively, or to the greatest extent, by importation instead of by production to a proper extent in the country.

If a patent ought to be withdrawn before the expiration of three years from the date of the publication of the grant in the Patent Journal, the withdrawal shall be preceded by a threat, stating the grounds and fixing a suitable term for the adequate working of the invention. This term should not end before the expiration of three years from the date of the application for the patent.

The withdrawal shall become operative on the day on which the decision of withdrawal becomes legally valid. If, however, the withdrawal have been preceded by a threat, the withdrawal shall become operative on the last day of the term for legal working as fixed in the threat, such day being set out in the decision of withdrawal.

[NOTE.—These two paragraphs were substituted by the act of the 29th of December, 1908, and came into force six months after that date.]

These provisions shall not apply to Government or War Office patents.

ANNULMENT.

SEC. 28. A patent shall be declared void when it appears:

1. That the subject was not patentable according to sections 1, 2, or 3.

2. That the invention is the subject of a patent or privilege of an earlier applicant.

If one of these assumptions (1 and 2) only partially obtain, the declaration of nullity shall consist of a corresponding restriction of the patent.

The legally operative declaration of nullity of a patent shall date back to the date of the application for the patent. In the case of paragraph 2, the license rights legally given by the later applicant, and in good faith acquired and entered one year previously on the register of patents by third persons, which are affected by no legally grounded litigation caveat (sec. 25), shall, however, remain unaffected by this retrospective action, without prejudice to the compensation claim arising therefrom, against the later applicant.

FORFEITURE.

SEC. 29. The patent shall be forfeited by a patentee if it be shown:

1. That the patentee is not the author of the invention, or his legal successor, or is not to be regarded as such (sec. 5); or
2. That the essential contents of the application have been taken from the description, drawings, models, tools, or apparatus of another, or from a process used by him, without his consent.

If one of these assumptions (1 and 2) only partially obtain, the patent shall only be partially forfeited by the patentee.

The claim for the forfeiture of a patent shall, in the first case, be made only by the author, his legal successors, and those who in the sense of section 5 are to be regarded as the author, in the second case only by the injured party, and is limited against the patentee in good faith to within three years from the date of his entry in the register of patents.

The reciprocal claims for compensation and reclamation, arising out of the forfeiture, shall be decided according to the civil code, and be enforced by a civil suit.

If the author or the injured party be successful, it shall be open to him, within thirty days after delivery of the legally valid decision of forfeiture, to demand the transfer of the patent to himself.

The omission of such a demand of transfer in time shall be held equivalent to renunciation of the patent.

License rights legally given by the former patentee, in good faith acquired by third persons, and entered in the register of patents one year previously, shall, in so far as they are not affected by any legally grounded litigation caveat (sec. 25), and without prejudice to the compensation claim arising therefrom against the original patentee, remain valid in the case of such a patent transfer also against the new owner of the patent.

DECLARATION OF DEPENDENCY.

SEC. 30. The owner of a patent may apply at the Patent Office for a decision that the industrial application of a patented invention involves the whole or partial use of his invention. The Patent Office shall decide concerning such a request under the proceedings provided for in the opposition process.

RIGHT OF RETALIATION.

SEC. 31. A right of retaliation may be brought into action by order of the whole Ministry against subjects of a foreign State which grant incomplete or no protection to the inventions of Austrian subjects.

BOSNIA AND HERZEGOVINA.

SEC. 32. With regard to the validity of the patents granted under this law in Bosnia and Herzegovina, the regulations issued upon the basis of the law of the 20th of December, 1879, shall apply.

II. PATENT AUTHORITIES, JOURNALS, AND INSTITUTIONS.

FUNCTIONS OF THE PATENT OFFICE.

SEC. 33. The grant, withdrawal, declaration of nullity, forfeiture, and the declaration of dependency, the decision concerning the relative inefficacy of a patent (sec. 9), the decision concerning infringement (sec. 111) and the granting of licenses (sec. 21), and also all entries in the register of patents, shall rest with the Patent Office.

The Patent Office shall further, upon request of the court, be under the obligation of giving written opinions upon questions concerning patents; if in legal proceedings differing opinions from experts have been submitted.

SEAT AND COMPOSITION OF THE PATENT OFFICE.

SEC. 34. The Patent Office shall have its seat at Vienna.

It shall consist of a president, his deputies, and of the necessary number of legal and technical members as councillors.

The members shall be partly permanent, partly non-permanent.

The president, as also the chairman of the appeal and annulment departments (sec. 36), shall be versed in the law.

The president, his deputy, and the permanent members shall be salaried Government officials.

The non-permanent members shall enjoy functional pay.

The organization of the Patent Office shall be determined by regulation.

SEC. 35. The president, his deputy, and the members of the Patent Office shall, upon the proposal of the Minister of Commerce, be nominated by the Emperor.

The appointment of the non-permanent members shall be for a term of five years; after its expiration they may be reappointed.

The Patent Office shall form, with reference to its outward business relations, an independent office. With reference to its supreme direction, it shall stand directly under the Minister of Commerce, who shall also appoint its staff.

DEPARTMENTS.

SEC. 36. In the Patent Office there shall be formed :

1. Application departments for patent applications, assignments, mortgages, voluntarily granted licenses, declarations of dependency (sec. 4), and litigation caveats.

2. Appeal departments for appeals, and

3. An annulment department for requests for withdrawal, nullity, forfeiture, and declarations of dependency (sec. 30) of patents, for decisions concerning the relative inefficacy of a patent, for applications for decisions as to infringement, and for requests for the grant of compulsory licenses.

DECISIONS IN THE DEPARTMENTS.

SEC. 37. The application departments shall form their decisions at sittings of three permanent members, including the chairman, amongst whom there shall be (if it do not concern decisions in the sense of sec. 40) two technical members present.

The final decisions of the appeal departments and the annulment department shall be given by a quorum of two members versed in the law, inclusive of the chairman, and of three technical members. The presence of three members, of whom two shall be technical members, shall suffice in the intermediate decisions in both these departments.

Experts who are not members may be called in to advise; these shall not take part in the voting.

The orders prepared for a preliminary decision or a decision shall in all departments be given in the name of the same by the referee intrusted with the matter, if necessary with the concurrence of a technical member.

The preliminary decisions and the decisions shall result from an absolute majority of votes. With an equality of votes the vote of the chairman shall be decisive.

The preliminary decisions and the decisions shall be given in the name of the Patent Office, shall be accompanied by reasons, be given in writing, and shall be officially sent to all parties concerned.

ORDER OF PROCEDURE OF THE PATENT OFFICE.

SEC. 38. The order of procedure of the Patent Office shall, so far as this law does not otherwise provide, be regulated by means of ordinances by the Minister of Commerce, and, if other departmental Ministers appear to be concerned, in agreement with them.

APPEALS AGAINST THE PRELIMINARY DECISIONS AND DECISIONS OF THE DEPARTMENTS.

SEC. 39. Appeals against the decisions of the application departments shall be to the appeal department. The same shall, unless other provisions in the law be provided for special cases, be handed in at the Patent Office within thirty days after delivery of the decision.

No member shall take part in the deliberation concerning the appeal who has taken part in the decision appealed against.

No further legal action, such as an appeal to the administration courts, shall lie against the decisions (intermediate and final) of the appeal departments.

An appeal shall lie to the Patent Court against the final decisions of the annulment department.

A separate appeal or complaint against the orders of the referee, prepared for a decision of an application department, or a decision of the appeal department or annulment department, shall not be permitted.

A separate appeal also against the intermediate decisions of the annulment department shall not be allowed; nevertheless an alteration of the orders prepared by the referee in all three departments, as also in the intermediate decision of the appeal department and annulment department, may be proposed by the department in question itself.

DECISIONS AND APPEALS RELATING TO ENTRIES ON THE REGISTER.

SEC. 40. The decisions of the Patent Office concerning entries in the register of patents in accordance with sections 9, 18, 19, 20, 21, 23, and 25, and also in the register of patent agents in accordance with section 43, shall be given by an application department to be composed of three members versed in the law. All interested parties shall be informed of the decisions.

An appeal may be raised against the decision within thirty days after delivery.

The appeal shall be, excepting in the case reserved to the Ministry of Commerce in section 43, to the appeal department of the Patent Office.

PATENT COURT.

SEC. 41. A Patent Court shall be appointed in Vienna as an appeal court against the decisions of the annulment department of the Patent Office.

The same shall consist of a president or a president of the senate of the Supreme Court and Court of Cassation as president and chair-

man, a councilor of the Ministry of Commerce, two court councilors of the Supreme Court and Court of Cassation, or their deputies, and of three technical members as assessors.

The members of the Patent Court and their deputies shall be appointed by the Emperor for a period of five years, upon the proposal of the Minister of Commerce in agreement with the ministries concerned. They may be reappointed.

During their term of office the provisions of Article 6 of the statute law concerning judicial authority, and the law of the 21st of May, 1868, for carrying out the same, shall apply to the members of the Patent Court.

The members of the Patent Court shall enjoy functional pay.

The three technical members shall be chosen for each case from the list of the technical members nominated from time to time by the president of the Patent Court.

The assistants and persons attached to the court shall be furnished by the Minister of Commerce.

GROUPS OF EXCLUSION.

SEC. 42. Members of the Patent Office and the Patent Court shall be debarred from cooperation:

1. In patent matters in which they themselves are parties, or as to which they stand to one of the parties in the relation of a partner, co-obligator, or person liable to redress.

2. In patent matters of their wives, or such persons to whom they are related in a direct line, or related by marriage, or to whom they are related in collateral lineage to the fourth degree, or related by marriage to the second degree.

3. In patent matters of their adoptive or foster parents, adoptive or foster children, or their wards.

4. In patent matters in which they represent or have represented one of the parties, or respecting which they experience or have in view a material loss or gain.

Members of the Patent Court shall further be excluded in patent matters in which they took part at the formulating of the decisions of the Patent Office.

PATENT AGENTS.

SEC. 43. Advocates, officially authorized private technical persons, patent agents, and persons finding the capital, shall alone be authorized to professionally represent parties before the authorities in patent matters.

The officially authorized private technical persons, as also the patent agents, shall, however, be prohibited from professionally representing parties in litigation, concerning the withdrawal, annulment, or forfeiture of a patent, or privilege, and also in all non-technical matters.

Patent agents shall be appointed by the Patent Office, in proportion to requirements, with the concurrence of the trade authorities.

The practice of patent agency shall be dependent on the entry of the agents in the register of patent agents, conducted by the Patent Office. This entry shall be published in the patent journal.

Every such entry shall be subjected to a tax of 100 florins.

Patent agents shall only be appointed from amongst those persons who:

1. Are of age.
2. Are Austrian subjects and reside in the country.
3. Have not been sentenced for an offense or crime committed for gain, or such like transgression.
4. Are able to show adequate technical qualification, by production of a diploma, or the proof of a successful prescribed State examination in a native technical high school, in a high school for agriculture, in a mining college, or in a faculty of philosophy of a native university, or a successful examination of equal importance in an analogous foreign high school of the same standing.
5. Have had at least two years' practice with a native patent agent; and
6. Prove by a successful examination, before the Patent Office, after completion of their practice, their familiarity with the provisions of native and foreign patent laws.

The tax for the examination in patent laws shall be 20 florins.

Patent agents shall be subjected to the disciplinary authority of the Patent Office.

In the case of the temporary or permanent incapacity of a patent agent to conduct the business carried on by him, the Patent Office shall be empowered if necessary to appoint a substitute for carrying on, or winding up, his business.

An appeal to the Ministry of Commerce against the refusal to enter on the register of patent agents shall be open to the person concerned within thirty days after delivery of the decision.

The issue of detailed provisions concerning the organization of the Institution of Patent Agents, and concerning disciplinary proceedings against patent agents, shall be determined by the regulating powers of the Minister of Commerce, in agreement with the Minister of the Interior. The decision whether a successful examination in a foreign high school be equal in importance to the successful State examination in an analogous native high school (clause 4 of this sec-

tion) shall concern the Minister of Commerce in agreement with the Minister for Culture and Education and the Minister for Agriculture.

PATENT JOURNAL.

SEC. 44. A patent journal shall be published periodically by the Patent Office, in which shall appear the publications provided for in this law.

The establishment and publication of this journal shall be determined by the regulating powers of the Minister of Commerce.

REGISTER OF PATENTS.

SEC. 45. A register of patents shall be kept by the Patent Office, which shall contain the successive numbers, the subject and the term of the patents granted, and also the names, occupation, and residence of the patentees and their representatives. The commencement, expiration, lapsing, opposition, withdrawal, declaration of nullity, and forfeiture of the patent, the expropriation thereof, the declaration of independence of a patent of addition, also the declaration of dependency of a patent, and also the transfer of a patent, license grants, mortgage rights, any other right accruing on a patent, the inefficacy of a patent with regard to a prior user (sec. 9), the decisions concerning requests for decision as to infringement (sec. 111), and litigation caveats, shall appear in the register.

The descriptions, drawings, models, and samples belonging to existing patents, also the requests and documents forming the basis of entries in the register, shall be preserved by the Patent Office in special archives.

Inspection of the register of patents, and of the descriptions, drawings, models, and samples, upon the basis of which the patent was granted, also inspection of the requests and documents, and also the taking of abstracts and copies, shall, in so far as it does not concern an unpublished patent belonging to the Government or War Office (sec. 65), be free to everybody. The Patent Office shall arrange for the publication of all alterations which concern the duration and ownership of a patent.

The Patent Office shall publish the descriptions and drawings of granted patents, in so far as their inspection is free to everybody, in separate printed specifications (patent specifications).

The Patent Office shall, upon request, give certified documents concerning entries in the register.

FINES.

SEC. 46. Fines and penalties imposed by the Patent Office shall go to the State treasury.

DELIVERY.

SEC. 47. The delivery of documents from the Patent Office shall take place officially, by servants of the Patent Office, or through the post.

In the case of a patentee who for a time possesses no representative in the country, or whose residence in the country is unknown, the Patent Office may, if necessary, appoint a trustee to represent him, delivery to whom shall be as valid as to the patentee himself.

III. PROCEDURE—(A) IN THE GRANTING OF PATENTS.

PATENT APPLICATIONS.

SEC. 48. Application for the purpose of obtaining a patent for an invention shall be made at the Patent Office in the written form prescribed, either by personal delivery or through the post.

The date of the delivery of the application at the Patent Office shall be deemed to be the date of application.

EXTENT OF THE APPLICATION.

SEC. 49. The combination of two or more inventions in a single application shall only be permitted if these inventions be related as component parts of, or as means of carrying out, the same object.

APPLICATION PETITION.

SEC. 50. The application shall contain:

1. The Christian and surnames, the occupation and residence of the applicant for the patent, and, if the request be lodged through a representative resident in the country, the same particulars also respecting such agent.
2. The request for the grant of the patent.
3. A short appropriate designation of the invention to be patented (title).
4. The number of years for which the applicant intends to pay the yearly fee before the grant of the patent.

ADDITIONAL REQUIREMENTS TO THE APPLICATION.

SEC. 51. The application shall be accompanied by:

1. The application tax of 10 florins (sec. 114), or the receipt for the payment of this tax at a post office for remittance to the treasury of the Patent Office.
2. A power appointing a representative, in the case of the applicant for a patent lodging his application through the latter.

3. The specification of the invention, prepared according to the provisions of this law (sec. 52), in duplicate, signed by the applicant for the patent or his representative.

PATENT SPECIFICATION.

SEC. 52. The patent specification shall:

1. Describe the invention in such a clear, lucid, and complete manner that the use of the invention is thereby rendered possible to persons versed in the art.

2. Exactly and distinctly indicate, by one or several claims at the end of the description, that which is novel and consequently forms the subject of the patent.

3. Comprise such drawings, prepared in a durable manner, as may be necessary for the understanding of the description, and, if necessary, also be accompanied by models and samples.

Alterations in the statements contained in the description may be made until the Patent Office have decided to publish the application.

With reference to alterations in the essence of the invention, the Patent Office (application department), after hearing the persons interested, may decide that the application shall date only from the time of making these alterations (sec. 54).

FURTHER REQUIREMENTS IN THE APPLICATION.

SEC. 53. The creation of further requirements in the application and patent specification shall be determined by the regulating powers of the Minister of Commerce, with the concurrence if necessary of the departmental minister concerned.

PRIORITY.

SEC. 54. The applicant shall acquire right to priority for his invention from the date of the regular application for a patent (secs. 48-53).

He shall, commencing with this date, enjoy priority as against any other similar invention applied for later.

If the application be defective, it may, after removal of the defects in proper time (sec. 55), be regarded as having been regularly made at the date of its first delivery, in so far as the removal of the defects leaves unaltered the essence of the invention.

If the removal of the defects in proper time cause an alteration by way of addition in the essence of the invention, the invention shall only be deemed to have been regularly lodged at the date of the removal of the defects, and shall enjoy the right to priority from this date only.

PRELIMINARY EXAMINATION.

SEC. 55. The application shall undergo a preliminary examination by a member of the application department.

If the application do not comply with the requirements prescribed, the applicant for the patent shall be required to remove the defects within a specified time.

If the preliminary examination, made if necessary with the concurrence of the experts concerned, show that according to sections 1, 2, or 3 there is obviously no patentable invention, the patent applicant shall, after being possibly summoned and heard by the member of the application department entrusted with the preliminary examination, be informed hereof, the reasons being given, and shall be requested to answer within a specified time.

The application department shall give a decision concerning the application after receiving a reply within the proper time, or, after the expiration of this time, without reply.

The president of the Patent Office shall have the right of making rules concerning the principles on which the preliminary examination shall be conducted, and concerning the procedure to be observed therein by the members of the application department, in which it shall be especially emphasized that at the preliminary examination the value of the invention applied for shall not be subject to judgment of any kind.

REJECTION OF THE APPLICATION.

SEC. 56. If the original or amended application do not satisfy the prescribed conditions, or if it appear that according to sections 1, 2, or 3 there is obviously no patentable invention (sec. 55), the application shall be rejected.

If the rejection take place upon a ground not already known to the applicant for the patent on the occasion of the preliminary examination, he shall be given the opportunity of replying to this ground of rejection within a specified time.

ACCEPTANCE OF THE APPLICATION, PUBLICATION, AND LAYING OPEN TO OPPOSITION.

SEC. 57. If the Patent Office be of opinion that the application is a proper one, and that the grant of a patent is not precluded, it shall order the official publication of the application (laying open to opposition). The publication of the application shall take place by publishing once in the official patent journal the name, occupation, and residence of the applicant for the patent, the subject of

the invention, and the patent claims contained in the application, or the essential contents of the same, and also the date of application.

The legal rights under the patent (sec. 8) shall, as regards the subject of the application, temporarily commence in favor of the applicant for the patent from the date of the issue of the patent journal (publication), which date shall be apparent upon the same.

Simultaneously with the publication, the application, with all annexed documents, shall be laid open to public inspection at the Patent Office for two months. The Patent Office may, if necessary, arrange for inspection at other places also.

The patent specification laid open to inspection shall enjoy the protection accorded by law to works of literature until the grant of the patent, and, if such grant should not take place, until the expiration of five years from the date of laying open to inspection.

The publication and laying open to inspection shall, at the request of the applicant for the patent, be delayed for the term of at least three, but at most six, months, reckoned from the date of the decision concerning publication.

OPPOSITION.

SEC. 58. Opposition to the grant of a patent may be made at the Patent Office within a period of two months from the date of publication.

The opposition shall be in writing and shall be lodged in duplicate. It shall only be founded on the following grounds, established by definite facts:

1. That the subject is not patentable (secs. 1-3).
2. That the invention corresponds substantially with an invention previously applied for, or previously patented or privileged.
3. That the applicant for the patent is not the author of the invention, or his legal successor, or to be regarded as such (sec. 5).
4. That the essential contents of the application opposed have been taken without consent from the descriptions, drawings, models, tools, or apparatus of another, or from a process used by him.

In a case coming under (3) the author only, or his legal successor, and in a case coming under (4) only the injured party shall be entitled to oppose.

A copy of the opposition shall be handed to the applicant for delivery of his written reply within a term of thirty days, which term may be prolonged for sufficient reason.

OPPOSITION PROCEDURE.

SEC. 59. As soon as the reply has been made, or the term for its delivery has expired, the referee entrusted with the matter shall

make the necessary arrangements for any further correspondence which may be necessary, for hearing the parties interested, producing the proof tendered by the parties, taking of proof, and also generally for the purpose of obtaining the most trustworthy elucidation of the true facts.

CONSIDERATION OF EVIDENCE AND DECISION.

SEC. 60. After completion of the preliminaries, the Patent Office (application department) shall, after full consideration of the proof brought forward, form a decision in private session concerning the grant of the patent.

COSTS.

SEC. 61. In their decision the Patent Office (application department) shall at their absolute discretion state the proportions in which the costs of the proceedings and legal assistance shall fall on the parties, and the amount thereof.

PATENT APPLICATION OF THE OPPONENT.

SEC. 62. If the opposition in cases under section 58, subsections 3 and 4, result in the rejection or refusal of the application, the party who opposed may, if he on his side make application for the invention within thirty days after delivery of the decision of the Patent Office respecting it, require that the date of the rejected or refused application be fixed as the date of his application.

APPEAL.

SEC. 63. The applicant for a patent may appeal against the decision by which the application is refused or sent back for amendment (secs. 56 and 60), and the applicant for a patent, or the party who opposed, may appeal against the decision granting a restricted or unrestricted patent, such appeals to be entered within thirty days after delivery of the decision.

Appeals made too late shall be rejected without instituting the appeal procedure.

The appeal, and its annexed documents, shall be lodged together with the number of copies necessary for the opponent.

A copy of the appeal shall be given to the opponent for delivery of the reply within a period of at least fourteen days, which for important reasons may be prolonged. For the further procedure before the appeal departments the provisions (secs. 59 to 62) made for the application departments shall apply.

In the appeal procedure new facts may be brought forward.

If the decision concerning the appeal be based on circumstances other than those taken into consideration in the decision of the application department appealed against, the parties concerned shall previously be given opportunity of expressing opinion thereon within a given time.

LETTERS PATENT—PUBLICATION.

SEC. 64. If the grant of the patent be finally decided on, the Patent Office shall order the entry of the protected invention in the register of patents, the publication of the grant in the patent journal, the preparation of the Letters Patent for the patentee, and also the printing and publication of the patent specification.

GOVERNMENT OR WAR OFFICE PATENTS.

SEC. 65. If an invention applied for in the interest of the equipment of the armed forces, or for other interest of State, by the Government or War Office be in question, or an invention applied for relatively to which the Government or War Office have made good their right of expropriation (sec. 15), the grant of the patent shall, upon their proposal, take place without any publication. In this case the laying open to inspection and printing of the specification, and also the entry of the subject of the invention in the public register of patents, shall be dispensed with. The publication and complete entry may at any subsequent date be demanded by the Government or War Office.

The term of such patents, the publication of which has stood over, shall run from the date on which the grant was finally decided upon.

REFUSAL.

SEC. 66. The withdrawal of an application after publication (sec. 57) or the refusal of the patent shall be published.

Upon publication of the withdrawal or refusal of the patent, the effect of the temporary protection (sec. 57, par. 2) shall be considered as not having taken place.

(B) IN THE LITIGATION OF PATENTS.

INSTITUTION OF THE DEMAND.

SEC. 67. The institution of the suit for the withdrawal, declaration of nullity, or forfeiture of patents shall ensue only upon demand. The Patent Office shall, however, be empowered to proceed ex officio with a suit brought for withdrawal or annulment if the demand be withdrawn.

If the bringer of the suit do not reside in the country, he shall be represented in the country by an advocate, and shall give to the opponent, upon his request, security for the costs of the suit. This request must be made, under penalty of forfeiting the claim to security, within fourteen days after delivery of the demand.

The amount of security shall be fixed by the Patent Office at their free discretion. The bringer of the suit shall be allowed a period within which to give security. If the security be not given before the expiration of the period, the demand shall be regarded as withdrawn.

IMMEDIATE REJECTION.

SEC. 68. Demands for the withdrawal, declaration of nullity, or forfeiture of a patent which are obviously not founded upon a legal ground, and also petitions which contain no definite request, or to make which the bringer of the suit has no title (secs. 29 and 30), may be rejected by the Patent Office (annulment department), the grounds being given, without further procedure.

Such decisions shall be regarded as final decisions.

FORM AND CONTENTS OF THE DEMAND.

SEC. 69. The demand shall contain a concise statement of the matter in dispute, and in addition to the definite request an indication of the nature of proof to be made good.

Documentary evidence shall be annexed in the original or as legalized copies.

The demand, together with its annexed documents, shall, if directed against one patentee only, be lodged in duplicate at the Patent Office.

If the demand be directed against several patentees there shall, in addition to the copy intended for the Patent Office, be lodged for each of the persons concerned a duplicate of the demand, together with copies of the annexed documents.

Every demand shall have as subject of dispute a single patent only, together with its patents of addition.

PROCEDURE IN NULLITY ACTIONS.

SEC. 70. The referee intrusted with the matter shall, if the demand be found suitable for instituting a suit, deliver a duplicate of the same, together with copies of the annexed documents, to the person concerned, with the instruction to lodge his reply in writing in duplicate within a period of at least thirty days, prolongation of which may be allowed by the referee for sufficient reason.

A copy of the replies lodged and the annexed documents shall be delivered by the referee to the complainant.

PRELIMINARY PROCEDURE.

SEC. 71. As soon as the replies are lodged, or the period for their delivery has expired without reply, the referee shall make the necessary arrangements for any further correspondence which may be necessary, for the production of the means of proof tendered by the parties, for the taking of such proof which it does not appear practicable to take in the verbal proceedings, and also generally for the purpose of obtaining the most trustworthy elucidation of the true facts, and for the proper preparations for the proceedings.

A minute shall be drawn up by a sworn secretary, if necessary with the assistance of some technical person, of the evidence taken in the presence of the parties in consequence of these proceedings.

REPORT OF THE PROCEEDINGS.

SEC. 72. After completion of the preliminary procedure there shall follow the report of the verbal proceedings by the president of the Patent Office or his deputy.

The report of the proceedings shall not take place if the Patent Office (annulment department) decide in private session that the demand shall be rejected as unsuitable for trial because of the non-competence of the Patent Office, or because of it being a matter already adjudicated.

SUMMONS.

SEC. 73. The parties concerned, or the representative appointed by them, and also the witnesses and experts agreed upon by arrangement with the referee (sec. 71) at the proceedings, shall be summoned to the trial.

The non-appearance of the persons concerned or their representatives shall not prevent trial and decision.

TRIAL.

SEC. 74. The trial shall be conducted and carried into effect according to the provisions, applied as near as may be, of sections 177 to 203 of the law of the 1st of August, 1895 (civil procedure regulation).

Besides the cases provided for in section 172 of the civil procedure regulation, publicity of the trial may upon request be dispensed with, either in respect of a portion of the procedure or for the entire trial, if by publicity an important interest of State, or a trade or commercial secret of one of the parties, or of a witness, be imperilled.

The members of the Patent Office and Patent Court, and also the reporting officials of the Ministry of Trade, shall be allowed access in spite of publicity having been dispensed with.

PROOFS AND TAKING PROOF.

SEC. 75. The procedure for procuring proofs shall, unless provisions contrary to this law are involved, be carried out according to the provisions, applied as near as may be, of sections 266 to 383 of the law of the 1st of August, 1895, concerning the legal procedure in civil suits (civil procedure regulation).

Testimony given by the witnesses before the Patent Office, and also statements given upon oath by the parties before the Patent Office, shall be equivalent to legal testimony.

The foregoing principles concerning proof procedure shall apply to the preliminary proceedings and also to the trial.

DELIBERATION AND VOTING.

SEC. 76. Deliberation and voting of the annulment department shall take place in private session.

COSTS OF ACTION.

SEC. 77. In the decision the Patent Office shall, at their absolute discretion, state the proportions in which the costs of the proceedings and legal assistance shall be chargeable to the parties, and the amount thereof.

Any private legal claims shall be referred to the ordinary courts.

Whoever withdraws a claim shall make good to the defendant the costs incurred; the amount thereof shall be determined by the Patent Office.

CONTENTS OF THE DECISION.

SEC. 78. The written decision shall contain:

1. The designation of the division and the names of the members who have taken part in the decision.
2. The designation of the parties, their representatives and attorneys, as also their relation to the parties.
3. The decision.
4. The facts of the decision, consisting in a concise statement of the condition of affairs resulting from the verbal procedure, the principal claims made by the parties being brought into prominence.
5. The grounds for the decision.

PROMULGATION OF THE DECISION.

SEC. 79. When possible the decision, with the essential grounds therefor, shall be given by word of mouth directly after the close of the verbal proceedings.

In all cases, however, the decision, in writing, together with the full grounds for the same, shall as soon as possible be sent to the parties.

KEEPING THE MINUTES.

SEC. 80. A sworn secretary shall, if necessary with the assistance of some technical person, draw up a minute of the proceedings. The same shall contain the names of the members of the annulment department present, of the parties and their representatives, and also the essential events in the proceedings, in particular the statements and opinions of any witness or expert heard, as also the demands of the parties and decisions thereon.

In a closed session a separate minute shall be kept, in which the result of the deliberation and voting shall appear.

Each of these minutes shall be signed by the president and the secretary.

INSPECTION OF RECORDS.

SEC. 81. The parties or their representatives shall, in so far as it may not be contrary to the provisions of section 65, be allowed to inspect the records of the proceedings, with the exception of the deliberation record.

PENALTY FOR VEXATIOUS ACTIONS.

SEC. 82. Parties, or their representatives, who are guilty of an obviously vexatious patent action may be condemned to a fine of 300 florins.

LEGAL ASSISTANCE.

SEC. 83. The court shall be under the obligation of rendering legal assistance to the Patent Office.

RESTORATION AND RESUMPTION OF THE PROCEEDINGS.

SEC. 84. A restoration shall not be allowed in case prescribed periods have been allowed to lapse.

If a decision cause the whole or partial withdrawal, declaration of nullity, or forfeiture of a patent, or an application having the

above in view be wholly or partially rejected, a party shall upon request be permitted to reopen the closed proceedings:

1. If a document, upon which the decision is founded, be fraudulently fabricated or forged.

2. If a witness or an expert have been guilty of a false statement, or the opponent in his examination guilty of a false oath, and the decision be founded upon this statement.

3. If the decision were obtained by means of a fraudulent proceeding, capable of being prosecuted in legal criminal proceedings, on the part of the representative of the party, by the opponent, or his representative.

4. If a member who has taken part in the decision, or in a former decision forming the basis of the decision, have in the action, to the prejudice of the party, been guilty of a violation of his official duty punishable by criminal law.

5. If a criminal sentence upon which the decision is based be quashed by another judgment which has become legally valid.

The restoration may, however, only be demanded by the parties to the action if made within one year after legal validity of the decision to be challenged, and without prejudice to the rights acquired in the meantime by third persons.

In particular those who subsequently put the invention into practice, or have made the preparations necessary therefor, acquire the right appertaining to the prior use of the invention (sec. 9).

That Patent Court (annulment department of the Patent Office or Patent Court) which gave the decision appealed against shall be called upon to decide the demand for restoration.

The request for restoration of the proceedings shall not delay the execution of the decision.

SEC. 85. If a patent be entered as not in force in the register of patents by the Patent Office in error, the Patent Office shall, upon ascertaining the error, order and give notice of the cancelling of this entry. In the meantime the rights acquired in good faith by third persons shall remain protected in such case as in the case of restoration.

EXECUTION.

SEC. 86. Legally valid judgments of the Patent Office, as also of the Patent Court, are capable of judicial execution.

APPEAL.

SEC. 87. Any person who considers himself aggrieved by a final decision of the annulment department of the Patent Office may appeal to the Patent Court.

A special appeal shall not lie against decisions given and determinations formed by the annulment department in the course of the preliminary proceedings or the trial. The same shall only be called into question on the appeal to the Patent Court, if they have had an influence upon the final decision (sec. 39).

The appeal shall be notified, and reasons given in writing, at the Patent Office within thirty days after the date of delivery of the decision appealed against. The appeal document and its annexed documents shall be lodged with the necessary number of copies for the opponent.

SUBMISSION OF THE APPEAL.

SEC. 88. The appeal document, delivered in proper time and complying with the legal regulations, shall, together with all documents of the proceedings, be submitted by the Patent Office to the Patent Court, and shall have a suspensive action.

Appeal documents overdue, or not complying with the requirements of section 87, shall be rejected by the Patent Office (annulment department).

DECISION OF THE PATENT COURT.

SEC. 89. The Patent Court shall form its decision concerning the appeal, allowed in accordance with section 88, upon the basis of the facts and evidence laid before the Patent Office.

The Patent Court shall refer the subject of the action to a second trial and decision by the Patent Office only if on the part of the Patent Office essential formalities of the trial were violated, the disregard of which hindered the formation of a legal decision.

BUSINESS ARRANGEMENTS.

SEC. 90. The Patent Court shall itself make its business arrangements and shall publish the same.

PROCEDURE.

SEC. 91. For the rest, the provisions of sections 68 to 84 shall be applied, as near as may be, for the procedure before the Patent Court.

Fresh evidence shall not be taken in these proceedings.

METHOD OF VOTING.

SEC. 92. The Patent Court shall decide by an absolute majority of votes. With an equality of votes the vote of the president shall be decisive.

LIMITATION OF THE NULLITY AND WITHDRAWAL CLAIMS.

SEC. 93. The legally valid decision given by the Patent Office or the Patent Court—

(1) In nullity suits:

- (a) That a given fact is not an obstacle to the patentability of the invention in accordance with sections 1, 2, and 3;
- (b) That the invention does not correspond with the subject of a prior patent or privilege.

(2) In a withdrawal suit:

That the invention has been legally worked, may, if the patentee in the course of the action have so demanded, in accordance with the arrangements made for this purpose by the Patent Office or by the Patent Court, be entered in the register of patents, with the effect that after the date of the entry the patent can not be the subject of a fresh action supported by like facts and the same testimony even by third parties.

DETAILED PROVISIONS FOR THE PATENT COURT.

SEC. 94. The detailed provisions concerning the organization of the Patent Court, concerning the procedure before the same, and concerning the carrying out of its decisions and orders, shall be determined by regulation.

IV. PATENT INFRINGEMENTS AND PRETENSIONS.

INFRINGEMENTS.

SEC. 95. He who without the consent of the owner of the patent—

- (a) Commercially produces, brings into the market, exposes for sale, or uses the subject of the protected invention (sec. 8);
- (b) Uses not merely for the needs of his own trade, in his own or other works, the patented invention, which he already at the date of the application had in good faith used in the country, or with regard to which he had made the necessary arrangements for such use (sec. 9).

shall commit an infringement.

ACTIONS FOR INJUNCTIONS.

SEC. 96. The injured party shall have against every infringer a claim for the recognition of his patent right, cessation of further acts of infringement, removal of the infringing articles, alteration of the means of infringement, indemnification, or delivery of the profits.

Jurisdiction concerning such claims shall appertain to the court intrusted with jurisdiction over trade matters.

WILLFUL INFRINGEMENT.

SEC. 97. If the infringement have been committed willfully it shall constitute a misdemeanor, and the guilty party shall be punished by the court of first instance appointed for the exercise of correctional jurisdiction by a fine of from 500 to 2,000 florins, or by imprisonment of from three months to a year, to which a fine of not more than 2,000 florins may be added.

Penal proceedings shall only ensue upon the demand of the injured party as private prosecutor.

Simultaneous application of the more strict provisions of the general penal code, especially those concerning fraud, shall not be hereby excluded.

The fines shall be paid to the State treasury.

IMPORTANCE OF THE PATENT SPECIFICATION FOR INFRINGEMENT.

SEC. 98. The description of the invention forming the basis of the patent (sec. 52) shall be the sole standard for deciding whether a patent has been infringed, and in no case shall any subsequent statement not contained in this specification of the object of the patent be taken into consideration.

MILITARY JURISDICTION.

SEC. 99. Persons in the armed forces, and in the Imperial Royal Gendarmerie in active service, shall be subject to military jurisdiction with reference to all offenses and transgressions coming under this law.

CONFISCATION OF PATENTED ARTICLES.

SEC. 100. In sentences or offenses under section 97 it shall, at the demand of the injured party, be pronounced that the infringing articles found in the possession of the guilty party shall be confiscated, unless security be furnished that they shall be put out of use until the expiration of the term of the patent, and that the instruments, apparatus, and other means which have exclusively or principally served to commit the infringement shall be rendered unsuitable for this use at the cost of the condemned person, unless security be furnished also in like manner with reference to this consideration.

If it be not possible to separate the patented portions from the infringing articles without destruction of the infringing articles, con-

confiscation shall extend to the entire infringing article integral with the patented portion.

Articles declared confiscated shall, unless an understanding be come to between the condemned and the injured party for their cession, with allowance for the compensation which may be due to the latter, or if the injured party be not willing to take over the articles declared confiscated at a valuation by the court as part consideration for the compensation which may be due to him, be deprived of the features in which they infringe the patent; if necessary, however, they shall be destroyed.

The execution of such a decision shall take place at the cost of the guilty party, if necessary in agreement with experts.

SEC. 101. If the penal procedure, without leading to the condemnation of the accused, establish the fact that an infringement has been committed, there shall, upon demand of the injured party, be pronounced, in the acquitting judgment, the confiscation of the infringing article and the putting out of use of the means according to the provisions of section 100.

The execution of such a decision shall take place if necessary in agreement with experts.

The costs of execution shall be borne by both sides in equal portions.

INFRINGING ARTICLES EXEMPT FROM CONFISCATION.

SEC. 102. Infringing articles (secs. 100 and 101) manufactured in fulfillment of a contract with the War Office, and their means of production prepared for this object, shall, if the War Office, within a period to be fixed by a judge, be able to prove the lodging of a request for expropriation (sec. 15), neither be declared confiscated nor made unusable, nor form the subject of measures directed to those ends (sec. 105).

The damage caused by these infringing articles to the party whose patent has been expropriated shall be comprised in the total of the indemnification to be computed.

INDEMNIFICATION.

SEC. 103. In the case of condemnation for the offense mentioned in section 97, the penal court shall, at the demand of the injured party, award, besides the penalty, also an indemnification, if the results of the penal procedure allow a trustworthy judgment of the civil claims to be made. The indemnification shall include, not only the exact reimbursement and the compensation for the profit lost, but there shall in addition, at the free discretion of the court, after taking into consideration all the circumstances, be awarded to the injured party

a sum commensurate with the annoyance and other personal inconveniences suffered. Both parties may appeal against the decision relating to the claim for indemnification.

An indemnity awarded shall not prevent the party injured from making a claim to a more complete indemnity before the civil judge.

PUBLICATION OF THE SENTENCE.

SEC. 104. If punishment be awarded, the injured party shall, on his request, be given the right to publish in one or several public journals, at the cost of the condemned, the condemnation of the guilty party, and, if in the opinion of the court the injured party have a legitimate interest, the grounds also of the sentence. The maximum of these costs and the other conditions relative to this publication, and also the period for the same, shall be determined in the judgment, regard being had to the propositions made by the injured party.

PRECAUTIONARY MEASURES OF SECURITY.

SEC. 105. If sufficient reasons exist for suspecting a given person of the offense of infringement, and it appear justifiable to assume the existence of an infringement of a patent, on the grounds of a judicial inspection undertaken, or of an opinion of an expert, suitable precautionary measures shall be taken on demand of the injured party in any stage of penal procedure, and in the event of danger in delay even before instituting the same, by way of judicial seizure, for the judicial or other custody or trust, in order that through these precautionary measures of security the infringing articles and the instruments serving for the infringement may not be withheld from future confiscation or from transformation under sections 100 and 101, and with the view of preventing the continuation and the repetition of the punishable act.

The penal court shall pronounce immediately upon such a demand; it shall be free to authorize unconditionally, or upon security deposited by the injured party, the demanded seizure or safe custody or other measures demanded. The court shall be authorized to order at any time the removal of these precautionary measures for security, and shall be bound to do so if the accused furnish a sufficient security.

If precautionary measures for security have been authorized before the commencement of the penal procedure, the person who demanded them shall, within eight days from the date of taking the same, commence the penal procedure, in default of which the precautionary measures for security shall be revoked at the demand of the accused.

PRELIMINARY QUESTIONS.

SEC. 106. It shall also be permissible to institute penal proceedings for the unauthorized use of an invention in cases in which, although

a patent has not been granted, yet the effect of a granted patent has temporarily come into effect for the same under section 57.

Sentence shall, however, not be passed, nor may the precautionary measures mentioned in section 105 take place, before the grant of the patent.

PRELIMINARY QUESTIONS.

SEC. 107. If it appear, in the course of the penal proceedings, that judgment is dependent on a preliminary question concerning the validity or efficacy of the patent infringed, the penal court shall be entitled to decide also concerning the preliminary question. If, however, the preliminary question has been already raised before the commencement of or during the process, by a sufficient motion made before the Patent Office by one of the parties, the penal court may suspend judgment until the pronouncing of the legal decision concerning the preliminary question, which decision shall then form the basis of the judgment.

The penal court may, in infringement processes in which a preliminary question has to be decided, call for the cooperation in the main proceedings of technical members of the Patent Office as experts. Members of the Patent Office who have already taken part in a decision concerning the validity or efficacy of the patent infringed shall be debarred from cooperation as experts.

The effect of the legal decision concerning the preliminary question shall remain limited to the penal case in question.

Certified copies of judgment concerning a preliminary question shall be sent to the Patent Office by the court.

ACTION BEFORE A CIVIL JUDGE.

SEC. 108. In claims for infringements (sec. 96) brought before a civil judge the provisions of sections 98, 100, 102, 105, 106, and 107 shall be applied, as near as may be.

The right to indemnification in the sense of section 103 appertains to the injured party against every person who is chargeable with culpable infringement.

Even if the accused have committed no penal offense, the injured party shall be entitled to call for the payment by him of the resulting profit.

SEC. 109. If claims for indemnification be made under this law before a civil judge, the latter shall at his free discretion, after taking into consideration all the circumstances, decide both concerning the existence and also concerning the amount of damage and concerning the value and the amount of profit.

INFRINGEMENT OF A PATENTED PROCESS.

SEC. 110. If in an action for infringement brought before a civil judge an infringement of an invention, which has for its object a process for the production of a new material, be in question, every material of like properties shall, until proof to the contrary be given, be regarded as produced according to the patented process.

APPLICATION FOR DECISION AS TO INFRINGEMENT.

SEC. 111. It shall be open to any person to have established by decision whether products which he wishes to manufacture, bring into the market, or use, or whether a process which he intends to employ, does or does not come either wholly or partially under a given patent mentioned by him.

This application for a decision as to infringement shall be made in writing, in duplicate, at the Patent Office, the annulment department of which shall decide thereon. An exact and clear description and drawing in triplicate of the article in question or process shall be annexed.

Such application for decision as to infringement shall only be made with reference to one patent, together with its patents of addition, and the proceedings instituted shall only then be prosecuted if the owner of the patent be not able to show that an action for infringement relating to the same matter in dispute, brought by him against the applicant before the bringing of his application, is still pending.

The procedure concerning an application for decision as to infringement shall be regulated according to the regulations made for nullity procedure, except that the costs of the suit of the application as to infringement before the Patent Office shall in all cases be borne by the applicant.

A copy of the description and drawing of the article or process in question, furnished by the applicant, shall be annexed to the decision as to infringement.

A legally valid decision that a given product or process does not fall within a given patent shall exclude any legal step for infringement with reference to the product or process mentioned in the decision on the part of the owner of the patent against the person who obtained the decision.

COMPENSATION FOR UNJUSTIFIABLE PROCEEDINGS FOR OBTAINING SECURITY.

SEC. 112. The obtaining of legal precautionary measures for security, subsequently acknowledged as not justified, imposes upon the

applicant the duty of compensating all third parties for damage caused through no fault of theirs by such precautionary measures.

The civil judge shall, simultaneously with his decision on the main question, pronounce concerning these claims for compensation, provided they are made good before the termination of the procedure for infringement. In estimating the amount of compensation, the provisions of section 273 of the law of the 1st of August, 1895, shall be taken into consideration.

USURPATION OF A PATENT.

SEC. 113. Usurpation of a patent is committed:

1. By the person, who provides, and brings into the market, articles or their packages having such a designation as is calculated to cause the erroneous belief that the articles or the method of production are protected under this law by a patent.

2. By the person who in public announcements, shop bills, trade cards, or in similar publications, makes use of a designation which is calculated to cause the erroneous belief that the articles, or the method of production, mentioned therein are protected under this law by a patent.

The usurpation of a patent shall constitute an offense, which shall be punished according to the provisions of the trade regulations, and the publications in question and the packages provided with the illegal designation shall be adjudged confiscated, but the articles themselves shall only be forfeited when the removal of the usurped designation, which shall invariably take place, can not be carried out without destroying the value of the article, or without an amount of trouble nearly corresponding to this value. If in these cases the offender were the owner of a patent, which has expired, for the article which he gives out as still protected by patent, the liability to punishment for his offense shall only commence after the expiration of one year from the expiration of the protection by patent.

V. TAXES.

APPLICATION TAX AND ANNUAL FEES.

SEC. 114. An application tax of 10 florins shall be paid on every patent, as also on every patent of addition, immediately on application.

In addition an annual fee shall be paid on every patent, the amount being dependent upon the term of patent protection demanded.

The same shall amount for the—

	Florins.		Florins.
First year-----	20	Ninth year -----	120
Second year-----	25	Tenth year-----	140
Third year-----	30	Eleventh year-----	180
Fourth year-----	40	Twelfth year-----	220
Fifth year-----	50	Thirteenth year-----	260
Sixth year-----	60	Fourteenth year-----	300
Seventh year-----	80	Fifteenth year-----	340
Eighth year-----	100		

On a patent of addition the annual fee shall only be paid once for its whole term, and this to the amount of 25 florins, in addition to the application fee, unless it be declared an independent patent (sec. 14).

The annual fees shall be payable from year to year in advance, reckoned from the date of the notice of the application in the patent journal (sec. 57), and may be paid for a patent in advance, either annually or for several or the whole fifteen years together, into the treasury of the Patent Office.

The annual fee for the first year shall be paid at latest within three months after the date of the publication of the application in the Patent Journal (sec. 57). If the payment be not made within this period, the application shall be regarded as withdrawn.

The yearly fees for the second to the fifteenth year shall be paid within three months after falling due. An additional fee of 5 florins on a granted patent shall be paid, besides the annual fee, for every payment made after the date of the falling due of these annual fees.

The annual fees may be paid by any person interested in the patent.

A person who is able to demonstrate his poverty, and also a workman who is proved to be limited to his work wage, may, if he apply for the patent for himself as author of the invention, be respited as regards the application tax and the annual fee for the first patent year, or it may be only the first annual fee, until the expiration of three months after the falling due of the second annual fee, and if the patent lapse with the commencement of the second year he shall be excused payment altogether.

An application tax paid shall never be refunded, the first annual fee only if the application be withdrawn before the date of its publication in the Patent Journal (sec. 57) or if the patent applied for be refused; all further payments of annual fees not yet due shall be refunded if the patent be renounced or if the same be withdrawn or declared null.

The Minister of Commerce may, after three years from the coming into force of this law, with the concurrence of the Minister of

Finance, order a decrease or increase of the application and annual fees to the extent of 50 per cent of their present amount.

ALTERATION OF THE SPECIFICATION.

SEC. 115. Every subsequent alteration of the specification made at the request of the applicant or his legal successor under section 52 shall be subject to a tax of 5 florins.

PROCEDURE TAXES.

SEC. 116. Simultaneously with the lodging of the following applications there shall be paid a tax:

	Florins.
1. For an appeal (sec. 63)-----	10
2. For a demand for withdrawal, declaration of nullity, or forfeiture (sec. 67)-----	25
3. For an appeal (sec. 87)-----	25
4. For an application for decision as to infringement (sec. 111)-----	20
5. For a request for the registration of an assignment in the register of patents-----	10
6. For a request for the registration—	
(a) Of a license granted voluntarily (secs. 20 and 21) in the register of patents-----	10
(b) Of a compulsory license granted by the Patent Office (sec. 21) in the register of patents-----	5
For a request for a litigation caveat (sec 25)-----	5

If payment be omitted, the demand shall be regarded as not having been made.

The appeal fee (1) shall be wholly remitted if the appeal be found to be justified: 15 florins shall be remitted from the fees mentioned under 2, 3, and 4 if the matter be referred back or if the proceedings instituted do not come to a verbal hearing.

STAMP DUTIES.

SEC. 117. Letters Patent issued under this law shall be free of stamp duty. Otherwise all other documents and copies shall remain subject to the existing provisions of the stamp and tax law.

EXEMPTIONS FROM STAMPS.

SEC. 118. Those who are able to prove poverty, and also workmen who are proved to be limited to their work wage, may be exempted from the payment of the fees payable under sections 115 and 116, Nos. 1, 2, and 3.

The president of the Patent Office shall be the final judge hereon, and also concerning the delay and exemption allowed, under section 114, of the application tax and the first annual fee.

VI.

TRANSITORY PROVISIONS.

SEC. 119. The provisions of the Imperial decree of the 15th of August, 1852, and, the case occurring, of the law of the 27th of December, 1893, shall further remain in force for patents already granted or pending on the date of the entry into force of this law.

SEC. 120. Applications for patents which, on the date of the entry into force of this law, were applied for but not granted under the Imperial decree of the 15th of August, 1852, may, on the applicant applying in due time, be proceeded with after (if necessary) paying the increase under the provisions of this law. In this case the said application shall, in so far as the specification of the same meets the demands of section 12 of the above named Imperial decree, enjoy priority from the date of the original lodging of the request.

In the examination into novelty in the sense of section 3 of this law, the novelty shall be judged by this date of priority. The amount of the patent tax paid on such patent requests shall, for patents granted upon such requests, be increased to the amount fixed in section 114 for the application tax and the corresponding annual fee, and shall be paid within three months from the date of the publication of the specification in the Patent Journal, in default of which the request shall be regarded as withdrawn. In this case the patent tax paid shall, after deduction of the application tax of 10 florins, be repaid to the applicant.

SEC. 121. The owner of a patent granted under the Imperial decree of the 15th of August, 1852, shall be free to apply to convert the privilege into a patent under the provisions of this law.

In this case the invention shall undergo the proceedings for examination into novelty and opposition, in which the date of priority shall commence from the date of application for the patent.

An application tax for such converted patent shall not be paid, if the conversion be applied for within one year from the date of the entry into force of this law.

The term of the patent which has already run shall be taken into consideration in fixing the term of the transformed patent.

The original date of grant of the patent shall determine the date when the annual fees are due and the amount thereof.

The annual fees, payable in advance, on the transformed patent, and not yet due, shall, on the neglect of the owner of the transformed patent to pay the corresponding annual fee when due, be increased to the amount of the yearly fee actually due. Should such patent have been originally granted in Hungary the registration taxes, payable in advance but not yet due, shall be augmented to the amount of

the annual fee actually due. The omission to pay this increase shall be equivalent to a neglected payment of an annual fee.

SEC. 122. The rights acquired by legally licensed owners of patent agencies for the procuring and sale of patents shall remain undisturbed by this law.

Their entry in the register of patent agents for the professional representation of parties in patent matters under this law shall, however, be dependent on the fulfillment of the conditions laid down in section 43 for this purpose, in which the Patent Office is authorized in cases worthy of consideration to dispense with the furnishing of proof as to the technical qualification by examination, as also the two years' practice with a patent agent of the country and the examination as to the patent laws.

SEC. 123. This patent law shall come into operation by ordinance of the Minister of Commerce and Minister of Justice, at the latest, however, on the first day of the third calendar year after its publication.

SEC. 124. My Minister of Commerce, my Minister of Justice, my Minister of the Interior, my Finance Minister, my Minister of Culture and Education, and my Minister of Agriculture shall be entrusted with the execution of this law.

Vienna, the 11th of January, 1897.

FRANZ JOSEPH.

[Law of the 29th of December, 1908 (so far as it is not inserted in the principal act), whereby, on the occasion of the adhesion to the International Union for the Protection of Industrial Property, regulations for carrying it into effect are enacted.]

On the occasion of the adhesion to the following international agreements:

The International Convention for the Protection of Industrial Property made at Paris the 20th of March, 1883:

The arrangement concerning the International Registration of Marks of Trade or Commerce made at Madrid the 14th of April, 1891;

The Protocol on the endowment of the International Bureau of the Union for the Protection of Industrial Property concluded at Madrid the 15th of April, 1891;

The additional Act of Brussels of the 14th of December, 1900, modifying the Convention of the 20th of March, 1883; and

The additional Act of Brussels of the 14th of December, 1900, to the arrangement of the 14th of April, 1891, concerning the International Registration of Marks of Trade or Commerce.

With the concurrence of both Houses of the Imperial Legislature I decree as follows:

SECTION 1. The rights of priority granted by Article 4 of the Convention of Paris of the 20th of March, 1883, as modified by the additional Act of Brussels, must be specially claimed on the application for an invention or on the deposit of the design or mark, otherwise the priority shall be determined by the date of lodging in this country.

Rules shall determine the documents necessary to establish the right to priority claimed within the term allowed, and shall state within what period such documents must be lodged.

SEC. 2. The rights of priority granted by Article 4 of the Convention of Paris of the 20th of March, 1883, as modified by the additional Act of Brussels, can not be claimed in this country by a native on the ground of his having made abroad an application for an invention, or a deposit of a design or mark.

This provision does not apply to natives who are domiciled or have effective and genuine industrial or commercial establishments within the territory of another contracting State.

SEC. 4. This law . . . shall come into force on the day on which the adhesion to the Convention mentioned at the beginning comes into force.

SEC. 5. My Minister of Public Works is charged with the execution of this law.

Vienna, the 29th of December, 1908.

FRANZ JOSEPH.

AUSTRO-HUNGARIAN TRADE-MARK LAW.

LAW OF JANUARY 6, 1890, RELATING TO PATTERN AND TRADE-MARK PROTECTION.

[N. B.—Contained in Part VIII of the *Reichsgesetzblatt*, official paper No. 19, published on 19th February, 1890.]

With the approval of both Chambers of the Reichsrath, I decree as follows:

SECTION I.—GENERAL CONDITIONS.

ARTICLE 1. In this law, under the term “marks” are understood the special marks, such as devices, numbers, vignettes, and the like, which serve to distinguish in commerce certain products and goods from other similar products and goods.

ART. 2. Any person wishing to secure the exclusive right to use a mark must obtain the registration of the same conformably with the regulations of the following section.

ART. 3. The following marks for goods are excluded from being registered, and therefore no sole right to them can be obtained:

(1) Which are exclusively composed of portraits of the Emperor or of members of the Imperial House.

(2) Which merely consist of the arms of the State or other public arms, numbers, letters, or words.

(3) Which are in general commercial use for certain sorts of goods.

(4) Improper or offensive representations or such as are otherwise contrary to public morality or contain such inscriptions or statements as are not in accordance with the actual commercial state of affairs or the truth, and are liable to deceive the consuming public.

ART. 4. Marks in which portraits of the Emperor or of any member of the Imperial House, representations of the Imperial Eagle, or of public arms form a considerable part shall only be registered if the right to use these special marks within the meaning of the existing regulations shall have been demonstrated previously.

ART. 5. No person shall be prevented, through the registration of any mark which also contains letters or words, from using his name or that of his firm, even if it be in an abbreviated form, for distinguishing his goods.

ART. 6. The use of registered marks is in general optional, but the minister of commerce can decree, as regards certain kinds of goods, that goods of that class shall not be put in circulation unless they are provided with marks registered in the manner described in the regulations within the meaning of this law.

ART. 7. The sole right to a mark shall not exclude the use of the same mark by another applicant for other classes of goods. In case of any doubt relative to the similarity of these classes of goods, the Minister of Commerce shall decide, after consultation with the Chamber of Commerce and Industry. (See Art. 13.)

ART. 8. The application for several marks in the name of one applicant, even when they are for the same class of goods, is permitted conformable with the regulations of this law.

ART. 9. The right to a mark goes with the business for which the mark is intended, expires with the same, and is transferred to a fresh proprietor in case of transfer of ownership. In the latter case, however, except when the business is carried on by the widow or by an underaged heir of the owner of a mark, or in trust or under an assignment to the creditors, the new owner must, within three months of the acquisition of the business being completed, have the mark transferred to his own name or, in default, the right to the mark shall cease.

ART. 10. No person shall make use of the name, style of firm, arms, or trade name of the establishment of another manufacturer or merchant for a mark for goods or products without the consent of the party in question.

ART. 11. Everything which is stated in this law for the marking of goods applies also to the labels affixed to the cases, barrels, wrappers and the like.

ART. 12. Nothing is altered by the present law in the existing regulations relating to special marks for certain goods, especially the regulations about punched marks.

SEC. 2. REGISTRATION, TRANSFER, AND EXTINCTION OF MARKS.

1. REGISTRATION.

ART. 13. Four copies of the marks for which any person shall desire to obtain the exclusive right must be filed in the Chamber of Commerce and Industry in whose district the business in question is situated. One copy shall be attached to the register of marks which is to be kept by the Chamber of Commerce and Industry; one copy shall be returned to the applicant inscribed with the acknowledgment prescribed in the succeeding paragraphs; two copies shall be laid before the minister of commerce. The applicant must, at the same time, state for what classes of goods his mark is intended. Further, a block of each mark must be filed with the Chamber of Commerce and Industry, which will be returned to the applicant after having been used. In the case of marks for materials such as metal, earthenware, glass, and the like, at least three samples of the materials with the marks impressed therein shall be filed.

ART. 14. For each specimen of the marks filed, the organ designated by the Chamber of Commerce and Industry shall announce—

(a) The serial number in the register.

(b) The date and hour of the filing.

(c) The name or the style of the firm in which the mark is to be registered.

(d) The class of business and goods for which it is intended.

This announcement must be signed and the official seal attached.

The registers of marks shall contain the details cited in paragraphs (a) to (d) and shall be open to inspection at the Chambers of Commerce and Industry.

ART. 15. For registering each mark, a tax of 5 gulden shall be paid, which shall go into the treasury of the chamber of commerce and industry where the registration was affected.

ART. 16. The registration of marks shall be renewed every 10 years, reckoning from the date of registration, by a fresh payment of the tax, otherwise the right to the mark will be considered as expired.

ART. 17. A central register of marks shall be kept at the Ministry of Commerce, in which the marks registered in the Chambers of Commerce and Industry shall be entered in rotation as they arrive.

The same details shall be given in the general register of marks as are contained in the registers to be kept by the Chamber of Commerce and Industry. (See Art. 14.)

The general register of marks, as well as the catalogues of its contents, which are to be alphabetically arranged and always kept up to date, shall be kept open for inspection in the offices of the ministry in question.

The same applies to the samples (Art. 13). Prints of the marks, after the latter have been entered in the central register, shall be published, using the blocks furnished, as per Article 13.

ART. 18. The minister of commerce, if necessary, after consultation with experts, shall notify the applicant for protection if an identical or similar mark to the one just applied for exists already for the same class of goods, in order that the applicant, according to his judgment, may sustain, modify, or withdraw the application.

The proprietor of the previously registered mark shall be, at the same time, informed that notice has been given to the applicant for protection of the fresh mark.

ART. 19. The exclusive right to use a mark by an applicant commences from the day and hour of filing the same at the Chamber of Commerce and Industry, and the priority shall be decided therefrom should similar marks have been filed by several applicants for protection at the same or different chambers of commerce and industry.

2. TRANSFERS.

ART. 20. In order to transfer the right to a mark, within the meaning of Article 9, the assignee must produce proof of his having acquired the business to which it relates.

The transfer is subject to the same tax as the first registration (Art. 15), and shall be entered both on the certificate granted to the applicant (Art. 13, par. 2), as well as in the register of the Chamber of Commerce (Art. 14), and in the central register of marks (Art. 17) and published (Art. 17, last paragraph).

3. EXTINCTION.

ART. 21. Marks become extinct—

- (a) On application of the proprietor of the mark.
- (b) If the registration shall not have been renewed when due under the regulations of Article 16.
- (c) If the transfer shall not have been duly carried out (Arts. 9 and 20).
- (d) If the Minister of Commerce shall decide that, under Articles 3 and 4, the mark should not have been registered.
- (e) In consequence of the decision of the Minister of Commerce obtained in any action about the existence of a right to a mark (Art. 30).

ART. 22. The extinction of a mark shall be entered on the certificate (Art. 14), as well as in the register of the Chamber of Commerce and Industry (Art. 14), and on the central trade-mark register and shall be published (Art. 17).

SEC. 3.—INFRINGEMENT OF THE RIGHTS TO A MARK.

ART. 23. Any person who shall knowingly put in circulation or keep for sale goods which are unauthorizedly marked with a mark, the exclusive right of use of which belongs to another, and, further, any person who for this purpose knowingly counterfeits a mark, commits an offense and shall be liable to be punished by a fine of 500 to 2,000 florins, or with from three months' to a year's imprisonment, to which a money penalty of 2,000 florins can be added.

The simultaneous employment of the more stringent regulations of the general penal code, especially those relating to the crime of fraud (Art. 197, etc.), is not thereby excluded.

ART. 24. The regulation of Article 23 applies also to those who knowingly put in circulation, or keep for sale, goods which are unauthorizedly marked with the name, firm, arms, or trade name of the place of business of a manufacturer or merchant; further, to those who knowingly fabricate such marks.

ART. 25. The liability for punishment for the acts enumerated in Articles 23 and 24 is not avoided if the mark, name, firm, arms, business style of the establishment be reproduced with so slight an alteration or in such an indistinct manner that buyers can only detect the difference of the goods in question from the ordinary ones by paying special attention thereto.

ART. 26. The ordinary courts shall be invoked for taking proceedings and the passing of sentence for the offenses detailed in Articles 23 and 24.

An action shall be commenced on the demand of the injured party.

ART. 27. On the application of the injured party an order can be made that the tools and appliances exclusively or specially used for the counterfeiting or unauthorized reproduction shall be rendered incapable of being used for this purpose, that the stocks of counterfeited marks and unauthorizedly manufactured labels shall be destroyed, and the unauthorized marks and labels removed from goods found in possession of the condemned persons, or from the packages of the same if that should involve the destruction of the goods.

The injured party shall be further authorized to publicly make known the judgment against the infringer at the expense of the latter. The mode of publication, as well as the duration of the same, is to be fixed in the decision after consideration of the proposals of the injured party.

On the application of the injured party, instead of the compensation due to him on his private rights, in addition to the penalty, a monetary fine to the amount of 5,000 florins, to be handed to the injured party, can be decreed by the court of justice, the amount to be fixed after free and careful consideration of all the circumstances.

Persons sentenced to pay a monetary fine can be arrested as separate debtors.

The rules of this paragraph shall apply even if the punishment take place under the stricter regulations of the general penal code.

ART. 28. The injured party is entitled, even before the punitive judgment is decreed, to demand the confiscation or seizure of the articles enumerated in Article 27, paragraph 1; also to make an application that the necessary measure shall be taken for the purpose of preventing a repetition of the punishable offense.

The court shall adjudicate immediately on this application, and it shall also be optional for it only to authorize the desired confiscation or arrest, as well as the other measures desired, against security to be given by the injured party.

ART. 29. Should the injured party demand, for any of the offences described in Articles 23 and 24, the grant of compensation through a civil court, the latter shall decide both as to the right of compensa-

tion, as well as the amount of the same, after due consideration of all the circumstances.

ART. 30. The Minister of Commerce shall decide the point whether the exclusive right of user of a mark belongs to a person, also as to the priority and transfer of this right, and also whether a registered mark shall be used by another party for a different class of goods (Art. 7).

Should it appear, in the course of legal proceedings in any of the cases enumerated in Article 23 that a decision of a question is pending, upon which, under the first paragraph of this Article 30, the Minister of Commerce has to adjudicate, the criminal court shall, after submitting the necessary documents to the minister in question, request him to decide this question first, and shall await the notice of same.

ART. 31. Contravention of the regulations set forth in Article 6 shall be punished by the usual courts in accordance with regulations of the industrial law, in which the forfeiture of the goods in question is always decreed.

SEC. 4.—MARKS RELATING TO BUSINESSES OUTSIDE AUSTRIA.

ART. 32. As regards the protection of marks, as well as of names, firms, arms, or trade names of houses belonging to foreign businesses, this takes place in accordance with the treaties or conventions concluded with the States in question.

The regulations of the customs and commercial union shall decide under what conditions marks registered in the territory of the royal Hungarian Crown and also names, firms, coats of arms, or trade designations of establishments of manufacturers or merchants of that country, shall share in the protection secured by this law.

SEC. 5.—CONCLUDING REGULATIONS.

ART. 33. Marks which shall have been registered under former regulations, and particularly those of which, under Article 16, the allotted period of 10 years before registration from the time of registration to the coming into effect of this law has not yet elapsed, shall enjoy, until the lapse of the 10 years, the protection accorded under the provisions of this law without reregistration. On the other hand, such marks as, on the coming into force of this law, shall have been registered more than 10 years, shall, after the lapse of three months, reckoned from the time of the coming into force of this law, be struck out of the register if the proprietor of the mark in question shall not have registered it afresh during this interval.

Such applications as shall be pending at the time of the coming into force of this law shall be completed before those authorities which were before qualified and on the ground of the former regulations.

ART. 34. This law for the protection of marks shall come into action after the lapse of three months from the day of its publication.

On that date the law of December 7, 1858 (*Reichsgesetzblatt* No. 230), shall cease to be in force.

ART. 35. My Minister of Commerce, my Minister of the Interior, and my Minister of Justice are intrusted with the carrying out of this law.

(Signed)

FRANZ JOSEPH.

TAAFFE.

BACQUEHEM.

SCHONBORN.

VIENNA, 6th day of January, 1890.

AUSTRIA WAR LEGISLATION.

[Imperial Ordinance of Aug. 29, 1914, concerning the effect of the state of war upon the delays, the lapses, and the procedure.]

SECTION 1. The effects exercised by the state of war upon the duration of delays and on the observation of lapses established by the prescriptions in force, or fixed by the authorities, as well as on the procedure, may be determined by way of ordinance. These may, in particular, determine in such measure and in what manner it is possible to avoid the legal prejudices resulting from non-observation of terms, or from lapses or other facts due to the state of war, and to bring remedies to such prejudices if they have already been produced.

SEC. 2. The present Imperial Ordinance entered into vigor upon the date of its publication.

SEC. 3. The Ministry interested are charged with the execution of this Ordinance.

PATENTS—DESIGNS—TRADE-MARKS—APPLICATIONS UNDER CONVENTION—PRIORITY, PROOF OF—DECREE OF SEPTEMBER 2, 1914.

[Translation.]

[Decree of the Ministry of Public Works of Sept. 2, 1914, relating to the extension of the term for filing documentary proof of priority in connection with applications for patents, designs, and trade-marks.]

On the ground of Articles 1 and 5 of the law of December 29, 1908, *Reichsgesetzblatt*, No. 268, by virtue of which rules of practice occa-

sioned by the adherence to the International Union for the protection of industrial property were promulgated, it is decreed:

Commencing from the day of publication of this decree until some further notice the term for filing documentary proof of priority may be adequately extended beyond the term stipulated in Article 6 of the decree of December 30, 1908, *Reichsgesetzblatt*, No. 271, on grounds meriting consideration. An application for the extension of a term already expired after July 25, 1914, may still be filed within 30 days from the time of publication of this decree.

(Signed) TRUKA, M. P.

(From *Reichsgesetzblatt*, Sept. 4, 1914.)

PATENTS—EXCEPTIONAL RULES IN FORCE DURING WAR.

[Translation.]

[Decree of the Ministry of Public Works, with the approval of the Ministries of Commerce, Finance, and Justice, of Sept. 2, 1914, by virtue of which exceptional rules pertaining to patent matters are in force during the time of martial complications.]

On the ground of the Imperial decree of August 29, 1914, *Reichsgesetzblatt*, No. 227, relating to the influence of war events on extensions, terms, and procedure, it is decreed as follows:

ARTICLE 1. For the period commencing July 26, 1914, until a day to be determined in due course by a decree, the following exceptions from the provisions of the patent law of January 11, 1897, *Reichsgesetzblatt*, No. 30, are in force.

EXTENSION FOR PATENT TAXES.

ART. 2. The term for the payment of patent taxes enumerated below, to be paid within the period stipulated in Article 1, by parties either in the military service or employed otherwise in a military capacity may be extended on petition.

1. The first annual tax, and the single annual tax for a patent of addition, for an application laid open for inspection.

2. The fee for lodging a complaint or appeal.

3. The taxes for a patent granted, non-payment of which would result in the annulment of the patent.

The extension granted terminates at the expiry of one month following the day to be stipulated by the decree (Art. 1). If the extended tax payment is not made until then, the application shall be considered withdrawn, in the case cited under Article 1, if the patent has not as yet been granted, but if the patent has been already granted, as in the case cited under Article 3, the same shall lapse.

The taxes cited under Article 2 shall be paid within the stipulated term, if the grace has not been obtained in accordance with paragraph 1 of Article 118 of the law for patents.

No additional fee shall be paid upon the extended payment of an annual tax.

The President of the Patent Office, who may grant an adequate extension on grounds deserving consideration, or upon the production of proof of military service or employment, acts definitely on petitions for extensions, which may also be filed, without authorization, by the manager of a business.

If the petition for an extension has not been granted, the consequences resulting from the neglect to pay a tax, as stipulated by the law for patents, become operative, without prejudice to the provisions of Articles 3 and 4 of this decree, provided that the tax is not paid within 14 days from the time of notification to the applicant, or, if the tax becomes due at a later date, at the time it falls due.

MAINTENANCE OF PATENTS NOTWITHSTANDING INTERRUPTED TAX PAYMENT.

ART. 3. If a tax payment were to be made within the term stipulated in Article 1, the non-payment of which would result in the annulment of a patent, and if upon later presentation of the neglected tax payment, proof is submitted that the neglect was caused by the events of war, without fault on the part of the patent owner or his representative, the extinction of the patent shall not be considered to have become effective.

The Division for Applications, upon petition, decides with the reservation of appeal (Art. 63 of the law for patents). The decision granting the petition shall be entered in the register for patents.

Parties having made use in the meantime, and in good faith, of the invention shall not be charged with infringement of the patent in consequence of such use. Said parties do not acquire a right to make use of the invention in future.

The neglect of the payment of a tax may be construed as having been caused by the war events in particular:

1. When the patent owner rendered military services or otherwise was employed in a military capacity;
2. When the due payment of the tax was impossible in consequence of the interruption of communication caused by the war or mobilization.

ART. 4. If the applicant has been prevented from prosecuting his application in a regular manner by reason of having been himself, or his representative, called out for active service, or by employment in a military capacity, or in consequence of interrupted communica-

tion caused by the war or mobilization, or by war events in general, and when in consequence of these circumstances the application is considered withdrawn on account of the neglected payment of the first annual tax or of the tax for the patent of addition (par. 6, Art. 114, of the patent law), the patent is not granted, or is only granted restricted in its scope, the reinstatement shall be granted on petition.

In the first conceived case the payment of the first annual tax or tax for the patent of addition, or the grace obtained for the payment of said tax on the ground of paragraph 9 of Article 114 of the patent law, shall be proved in the petition for reinstatement. The Division before which action was pending at the time, as provided in accordance with paragraph 6 of Article 114 of the patent law, decides regarding the reinstatement. The procedure shall be continued if the reinstatement be granted.

The reinstatement consists in the resumption of the appeal procedure, if upon complaint of the opponent a decision adverse to the applicant has been modified.

In other cases the reinstatement consists in the concession to applicant of the right to file an appeal, which shall be done in connection with the petition for reinstatement.

Deficiencies, on the ground of which the application was rejected and the correction of which applicant was prevented from making, may be corrected at the time of filing the appeal.

The Appellate Division renders decision, in the cases of the two preceding paragraphs, regarding the allowance of an appeal.

The publication shall be repeated, if the grant of the patent be held allowable with a greater scope in comparison with the original publication. In this case however the day of the first publication is determinative in respect of the calculation of the duration of the patent.

The first annual tax refunded in consequence of the rejection of the patent (par. 10, Art. 114) shall be paid upon filing the petition for reinstatement, with the reservation of an extension in accordance with paragraph 9 of Article 114 of the law for patents.

Parties having in good faith made use of the invention after the publication of these facts can not be charged with infringement of the patent on the ground of such use, if the decision regarding the complete or partial rejection, rendered in accordance with paragraph 6 of Article 114 of the patent law, has been made retroactive by the reinstatement. No right to the future utilization of the invention is acquired by said parties.

The reinstatement on the ground of neglect to observe the term for appeal is permissible in favor of parties having been themselves prevented, or whose representative has been prevented, by the calling out for active service, or other employment in a military capacity, or

through the interruption of communication caused by the war or mobilization, or through war events in general, from the timely lodging of the appeal. Appeal to the Patent Court may be made from the refusal to reinstate. If through the later decision the declaration of nullification or revocation of the patent, decreed in the earlier decision, is made retroactive, the provision contained in the preceding paragraph pertaining to the use, in good faith, of the invention in the meantime is applicable.

The application for reinstatement may be made before the expiry of one month from the day, to be determined in accordance with the decree (Art. 1), but if the state of being prevented continues beyond that period, application may still be made within one month from the day the obstacle has been removed.

ART. 5. In the sense of this decree "in military service" or "otherwise employed in a military capacity" shall be construed to mean:

1. Members of the armed forces of the Austro-Hungarian Empire (common army, navy, militia, reserves);

2. Such persons as have been drafted in the service for war purposes on the ground of Article 7 of the law relating to military service or on the ground of the legal provisions in force in respect of military service.

3. The personnel of the field gendarmerie, civilians who in an official capacity are assigned for service to the army in the field, or who belong to the retinue of the army in the field.

4. All persons voluntarily engaged in relief work in the army in the field.

ART. 6. The acts of favor granted in this decree are also applicable when the situation governing such an act is not conclusive in respect of everyone of the parties in interest (joint applicant, joint owner of a patent, associate litigant).

DELAY OF PUBLICATION OF PATENT APPLICATIONS.

ART. 7. The publication and the laying out of the patent application may be held in suspense on motion made within the period stipulated in Article 1 for a term not exceeding twelve months reckoned from the day of notification of the decision of publication.

ART. 8. This decree becomes effective on the day of its publication.

(Signed)

TRUKA, M. P.

(Signed)

ENGEL, M. P.

(Signed)

HOCHENBURGER, M. P.

(Signed)

SCHUSTER, M. P.

(From *Reichsgesetzblatt*, Sept. 4, 1914.)

TRADE-MARKS—EXCEPTIONAL RULES—WAR MEASURES—DECREE OF
SEPTEMBER 24, 1914.

[Translation.]

[Decree of the Ministry of Public Works, with the approval of the Ministries of Commerce and Justice, of Sept. 24, 1914, (*Reichsgesetzblatt*, No. 257), by virtue of which, in consequence of the martial complication, exceptional measures pertaining to trade-mark matters are taken.]

By virtue of the Imperial decree of August 29, 1914 (*Reichsgesetzblatt* No. 227) (for notice, see 13 P. & T. M. Rev., 14), relating to the influence of war events on extensions, terms and procedure, it is decreed as follows:

ARTICLE 1. A term until February 1, 1915, is granted for the renewal of marks that are to be renewed during the period commencing July 26 until December 31, 1914, inclusive, in order to maintain the trade-mark right in accordance with the provision of Article 16 of the law of trade-marks of January 6, 1890. (*Reichsgesetzblatt*, No. 19.)

ART. 2. The ten-year duration of a mark renewed on the ground of Article 1 commences from the day on which the mark had, at the latest, to be registered in accordance with the provisions of the law of January 6, 1890. (*Reichsgesetzblatt*, No. 19.)

ART. 3. The annulment of a mark shall be considered as not having taken place and shall be made retroactive, if the mark to which Article 1 is applicable has been annulled, in consequence of neglected renewal, before the expiry of the term allowed, provided that the mark is renewed within the said term.

ART. 4. The grace specified in Article 1 is applicable to marks of foreign establishments in proportion to the agreements in force with the country of origin of the mark.

ART. 5. The commencement and duration of a term for instituting an action under Article 4 of the law of July 30, 1895 (*Reichsgesetzblatt*, No. 108), is discontinued on the ground of absence while in the military service or on the ground of war events, for such a length of time as these obstacles prevail, provided that the institution of an action is prevented thereby.

ART. 6. The provisions of the decree of September 15, 1914, (*Reichsgesetzblatt*, No. 245), relating to exceptional provisions for procedure and terms in matters pertaining to a public right in favor of military men are also applicable to administrative matters pertaining to trade-marks in so far as this decree does not contain any deviating rules.

ART. 7. This decree becomes operative on the day of its publication. (From *Oesterreichisches Patentblatt*, Oct. 15, 1914.)

INDUSTRIAL PROPERTY—ALIEN ENEMIES—"WAR MEASURES"—DE-
CREE OF OCTOBER 16, 1914.

[Translation.]

[Imperial decree concerning measure for reprisal in legal and economic matters, resulting from the state of war (Oct. 16, 1916).]

By virtue of Article 14 of the Constitution of December 21, 1867 (*Reichsgesetzblatt*, No. 141), I decree the following:

ARTICLE 1. The Government is authorized to issue, by virtue of the right of reprisal, ordinances or decrees of a legal or economic nature concerning the treatment of foreigners and foreign enterprises, as well as to take measures necessary for preventing valuables being transmitted directly or indirectly to an enemy country.

ART. 2. Whoever shall knowingly violate the provisions of Article 1 shall be punished by imprisonment of from one month to one year.

The penalty of imprisonment may be combined with a fine amounting to as much as 50,000 crowns, which shall be paid into the Treasury of the State.

ART. 3. The present Imperial Ordinance shall become effective from the date of its publication.¹

The Minister of the Interior and the other Ministers concerned are charged with the execution of the present ordinance.

Vienna, October 16, 1914.

(Signed)

FRANCIS-JOSEPH, *M. P.*

Countersignatures of Ministers.

(From 30 *La Propriété Industrielle*, 150, of Oct. 31, 1914.)

PATENTS—DESIGNS—TRADE-MARKS—APPLICATIONS—CONVENTION—
PRIORITY—DECREE NO. 353 (SUPPLEMENTAL) OF DECEMBER 1, 1915.

[Ordinance of the Minister of Public Works supplementing the ordinance of Sept. 2, 1914, No. 233, which extends the time limits for the production of documents establishing the right of priority in the matter of patents, designs, and trade-marks.]

By virtue of the Imperial Ordinance of August 29, 1914 (*Reichsgesetzblatt*, No. 227), concerning the effects of the state of war on time limits, forfeitures, and procedures, it is hereby decreed, until further notice, as follows:

SECTION 1. The ordinance of September 2, 1914 (*Reichsgesetzblatt*, No. 233), is supplemented by the following provisions:

"When an applicant shall have been prevented by the state of war from producing within the time specified the documents establishing his right of priority for an application for patent, he shall, upon his petition, be restored to the former status. This applies also to the time limits which had expired before this ordinance goes into force.

¹ Published Oct. 23, 1914.

"The effect of the restoration to the former status shall be that the documents establishing the right of priority shall be considered as having been produced in time.

"The petition for restoration, which shall be accompanied by the documents establishing the right of priority, shall be presented before the final conclusion of the proceedings for issue.

"The petition for restoration pertains to the section of the Patent Office in which the proceedings for issue are pending."

SEC. 2. This ordinance shall go into force on the day of the publication of the same.

(Signed) TRUKA, M. P.

(From 232 *Official Gazette*, 623.)

ORDINANCE NO. 349 OF DECEMBER 1, 1915.

[1. Ordinance of the Minister of Public Works establishing exceptional provisions, by reason of the state of war, with regard to the terms of priority fixed by the Convention of the Union of Paris for the Protection of Industrial Property.]

By virtue of the Imperial ordinance of August 29, 1914 (*Reichsgesetzblatt*, No. 227), concerning the effects of the state of war on the time limits, forfeitures, and procedures, it is hereby ordered as follows:

SECTION 1. (1) The terms of priority provided with regard to filing in the matter of patents, designs, and trade-marks by Article 4 of the Convention of the Union of Paris of March 20, 1883, revised at Brussels December 14, 1900, and at Washington June 2, 1911, are hereby extended, in so far as they had not expired prior to July 26, 1914, until the expiration of three months after a date to be fixed by a future ordinance.

(2) This provision shall be applicable in favor of subjects of other countries belonging to the International Union for the Protection of Industrial Property only if such countries grant to Austrian subjects an extension of the terms of priority. If, however, one of said countries accords this privilege to Austrian citizens to a less wide extent than provided for in paragraph 1, the same restriction shall apply to the subjects of such country.

(3) A notice published in the *Reichsgesetzblatt* shall specify to what extent the terms of priority are prolonged in Austria in favor of subjects of other countries in conformity with paragraph 2.

SEC. 2. (1) When an applicant shall have been prevented by the state of war from observing the terms of priority provided with regard to filing in the matter of patents, designs, and trade-marks by Article 4 of the Convention of the Union of Paris on March 20, 1883, revised at Brussels December 14, 1900, and at Washington June 2,

1911, he shall, upon his request, be restored to the former status. This shall apply also to the time limits which had expired before the present ordinance goes into force.

(2) The effect of the restoration to the former status shall be that the filing is to be considered as having been effected during the term of priority.

(3) The petition for restoration shall be presented within the three months following the disappearance of the obstacle, or, if the obstacle disappears prior to the date of the notice provided for in paragraph 5, then within the three months following such date. The petition for restoration shall, however, in all cases, be formulated not later than within three months after the date to be fixed by a future ordinance. The filing shall be effected at the same time that the petition for restoration is presented.

(4) The petition for restoration pertains to the section of applications of the Patent Office in the case of an application for a patent; and in case of the filing of a design or trade-mark, it pertains to the Minister of Public Works, to whom the Chamber of Commerce and Industry shall submit the petition which must be filed with the latter.

(5) These provisions shall apply in favor of subjects of other countries belonging to the International Union for the Protection of Industrial Property in so far as acts of filing are concerned for which, according to a notice published in the *Reichsgesetzblatt*, like advantages are accorded in such countries to Austrian subjects.

SEC. 3. Unless an applicant establishes the fact that he is of another nationality insuring him more favorable treatment, he shall be considered to be a subject of the country in the territory of which his domicile or place of business is located.

SEC. 4. This ordinance shall go into force on the day on which it shall be published (published in the *Reichsgesetzblatt*, No. 879, of Dec. 3, 1915).

(Signed) TRUKA, M. P.

[Decree of Dec. 14, 1914, No. 343, of the Ministry in full session forbidding the making of payments in Russia.]

In view of paragraph 1 of the Imperial Ordinance of the 16th of October, 1914, concerning the measures of replying (retorsion) in matters judicial and economic caused by the state of war, the following is decreed:

1. The provisions of the Ordinance of the Ministry in full session on October 22, 1914, forbidding the making of payments in Great Britain and in France, the provisions are applicable to Russian nationals and to persons having their domicile or establishment in Russia, with this modification, that the prohibition has its effect with respect to each purchaser, wherever his domicile or establishment

may be, if he acquired his right after the coming into force of the present Ordinance. The payments necessary to obtain or maintain in force in Russia rights in the matter of patents, designs, or trade-marks, are authorized until the new order.

2. The present Ordinance will come into force from the date of its publication.

[Decree of Dec. 24, 1914, No. 355, by the Ministry of Public Works in accord with the Ministries of Commerce and Justice for completing the ordinance of Sept. 24, 1914, establishing exceptional arrangements in the matter of trade-marks for the duration of the war.]

In view of the Imperial Ordinance of the 29th of August, 1914, concerning the effects resulting from the war, on terms, lapses and procedure, the following is decreed:

The term for the renewal of trade-marks mentioned in paragraph 1 of the Ordinance of September 24, 1914, is prolonged until the 1st of August, 1915, inclusive.

The same term is set for the renewal of trade-marks which, by the terms of the provision of paragraph 16 of the law of the 6th of January, 1890, on trade-marks, should have been renewed between the 1st of January and the 30th of June, 1915, inclusive.

The provisions of paragraphs 2 to 4 of the Ordinance of September 24, 1914, are applicable to favorable treatment established by the two lines preceding. The present Ordinance will come into force from the date of its publication.

[Decree No. 74 of Mar. 20, 1915, of the Ministry of Public Works modifying a provision of the Ordinance of the 22d of April, 1913, on the international registration of trade-marks.]

The provision of paragraph 4, letter B No. 1 of the Ordinance of the Ministry of Public Works of the 22d of April, 1913, concerning the international registration of trade-marks is partially modified in the sense that, until the new order, the international payment shall be made in crowns, according to rates of reduction established for payments to be made in Switzerland through the Postal Savings Bank and published in the Wiener Zeitung, so that it will be in force on the date of deposit of the applicant holding the international registration of the mark. The present Ordinance will come into force on the date of its publication.

(Signed) TRUKA, M. P.

[Notice concerning procedure applicable to applications for patents emanating from citizens of enemy countries (Austrian *Patentblatt*, 1st of May, 1915, p. 120).]

The Imperial and Royal Bureau of Patents applies actually to applications of patents emanating from citizens of enemy countries, the procedure indicated hereafter:

The procedure with relation to application for patent is conducted up to the deliverance of the patent only. It is in consequence

carried to a preliminary decision, to decision to publish the application, and to appeals to oppositions. Decisions rejecting the application are equally rendered the case requiring. The deliverance of patent as a measure of retaliation is suspended. If one claims for an application a right of priority based on the International Convention, this priority is provisionally taken into consideration in the preliminary examination and in the decision upon the publication of the description. The question of priority will be definitely decided in the decision pronouncing upon the grant of the patent. If the decision carrying the rejection of the application depends upon the preliminary question of knowing if a union priority claim is applicable, the decision will be postponed. The benefits provided by paragraphs 3, 4, and 7 of the Ministerial Ordinance of the 2d of September, 1914 (Bulletin of Laws of the Empire, No. 32), so far as they concern the maintaining in force of patents, notwithstanding the non-payment of taxes, the reestablishment of patents in the former state, notwithstanding the non-observance of fixed delays, the prolongation of delays accorded for the withholding of the publication relative to the application for patent, as well as the benefits provided by the Ministerial Ordinance of the 2d of September, 1914 (Bulletin of Laws of the Empire, No. 233), concerning the prolongation of delay accorded for the production of brief establishing the right of priority are applicable to citizens of France and of Great Britain in the cases where and also so long as these countries afford equally to Austrian citizens the benefits that are accorded them by reason of the state of war. The liquidation of demands tending to the transmission of citizens of enemy countries and of nationals, or to the citizens of allied countries or neutrals, of rights resulting from an application for patent will be withheld so long as the documents serving as a state for the application have not been established prior to the entry into war with the countries in question. Also as long as the applicant or petitioner has not justified a different nationality, he will be considered as a citizen of the country where is found the place indicated by him as his domicile, or as the location of his establishment.

Until a new order nothing will be done with applications for patents emanating from Russian citizens.

PATENTS—WAR MEASURES—DECREE OF MAY 17, 1915.

[Translation.]

[Decree of the Ministry of Public Works, with the approval of the Ministries of Finance, Commerce, and Justice, of May 17, 1915 (*Reichsgesetzblatt*, No. 123), relating to the amplification and modification of the decree of Sept. 2, 1914 (for translation of which see 13 P. & T. M. Rev., 4), by virtue of which exceptional provisions are made in respect of patent matters during the period of existing martial complications.]

On the ground of the Imperial decree of August 29, 1914 (*Reichsgesetzblatt* No. 227) (for notice of which see 12 P. & T. M. Rev.,

352), relating to the influence of martial events upon prolongations, terms, and procedure, it is decreed as follows:

ARTICLE 1. 1. The following paragraphs are interpolated in Article 2:

"This extension may be granted on motion to persons other than those specified in the preceding paragraph, if the same have been prevented by martial events from making timely payment of the tax.

"The grace for the payment of taxes specified in Nos. 1 and 2 of Article 2 may no longer be granted after the publication in *Patentblatt* that the patent application is held to be abandoned, or after the entry in the *Patent Register* of the extinction of the patent. A motion for extension of the term for the payment of taxes specified in No. 2 of Article 1 shall be made prior to the expiry of the term for the payment of the tax.

"The grace granted for the payment of an annual tax is applicable to every additional annual tax falling due within the term of said grace."

2. Paragraph next to last in Article 2 shall read:

"The President of the Patent Office finally decides in respect of motions made for an extension, which also may be made by the manager of a concern without his having received any instructions, and may grant a reasonable term for the filing of any certifications that may be required."

3. The first paragraph in Article 3 shall read:

"The annulment of the patent shall, on motion, be declared as not effective, if a tax should have been paid within the period fixed in Article 1, the non-payment of which would result in the annulment of the patent, and if the neglect to pay was occasioned by war events without fault on the part of the patentee or his representative."

4. In Article 3 there shall be interpolated as second paragraph:

"The motion shall be made at the latest within a month from the day to be determined by the decree (Art. 1), accompanied by the remittance for the neglected tax payment."

ART. 2. Motions for the extension of time for the payment of annual taxes that have fallen due after July 25, 1914, may be also granted on the ground of motions for extension of time that are filed within two months from the day of publication of this decree, even after the publication in *Patentblatt* to the effect that the patent application is held to be abandoned, or after the entry in the *Patent Register* of the extinction of the patent as provided in the decree of September 2, 1914 (*Reichsgesetzblatt* No. 232).

The reinstatement into the former status (Art. 4 of the cited decree) or the maintenance of the patent (Art. 3 of the same decree) becomes legally effective upon the grant of an extension of time for the payment of taxes.

ART. 3. This decree comes into force on the day of its publication (May 19, 1915).

(From *Oesterreichisches Patentblatt*, June 1, 1915.)

DESIGNS—WAR MEASURES—DECREE OF JUNE 2, 1915.

[Translation.]

[Decree of the Minister of Public Works, with the approval of the Minister of Commerce, of June 2, 1915, by virtue of which in consequence of the state of war exceptional provisions are provided for in matters pertaining to the protection of designs.]

On the ground of the Imperial decree of August 29, 1914 (*Reichsgesetzblatt*, No. 227) (notice of which see 12 P. & T. M. Rev., 352), relating to the influence of martial events upon prolongations, terms, and procedure, it is decreed as follows:

ARTICLE 1. The commencement and course of duration of protection of designs (sec. 1 of Art. 4 of the law for the protection of designs of Dec. 7, 1858, *Reichsgesetzblatt*, No. 237) is suspended during the period commencing July 26, 1914, until a day to be determined upon by decree.

Consequently there commences, without prejudice to the protection acquired through the registration of the design—

1. The course of the entire duration of protection in respect of designs that have been deposited within the aforesaid period;

2. The course of that part of duration of protection in respect of designs that have been deposited prior to July 26, 1914, and which has not expired on that day, from the day to be determined by decree (Art. 1).

The partial term of protection that has expired prior to July 26, 1914, shall be reckoned by whole months, and periods of less than a month shall not be computed.

These provisions are likewise applicable to designs, the term of protection for which has already expired in accordance with Article 4, section 1, of the law for the protection of designs during the period from July 26, 1914, until the beginning of the operation of this decree.

ART. 2. The provisions of Article 1 are likewise applicable to the term within which the part entitled to the design has to utilize the same still in the home country, and within which a sealed deposited design is to be kept secret (Art. 9 of the law for the protection of designs). These provisions are not applicable to the term of secrecy of a design, if the secrecy has been discontinued prior to the commencement of the operation of this decree (Art. 9 of the law for the protection of designs).

ART. 3. Persons that have utilized the design within the period following the day whereon the term of protection, according to Article 4, section 1, of the law for the protection of designs has expired, up to the coming into operation of this decree, may not be held liable, on account of this employment, and are entitled to continue the use of the design in their own establishments.

ART. 4. The registration shall not be considered as having been effected and made retroactive in the event that the nullification of a right to a design, the duration of which has been suspended (Art. 1), has already been recorded in the register for designs. The design shall be transferred from the public archives for released designs to the public archives for protected designs.

ART. 5. In connection with designs, the one or two year term of protection of which has not as yet expired on July 26, 1914, or those that are deposited within the period indicated in paragraph 1 of Article 1 for the duration of protection of one or two years, the term of protection may be prolonged to three years. This prolongation is effected by the payment of a fee to the Chambers of Commerce and Trade. The fee amounts to one *krone* for each design and for each year of additional protection claimed. The fee shall be paid before the expiry of the term of protection that is to be reckoned in accordance with Article 1 of this decree at the Chamber of Commerce and Trade, or shall be paid at a post office situated within the domains. A prolongation of the term of protection to a third year is not permissible in connection with a design, the term of protection of which has merely been prolonged to a second year.

ART. 6. This decree comes into effect on the day of its publication. (Published June 8, 1915, in *Oesterreiches Reichs-Gesetzbl.*, 1915.)

(From *Blatt für Patent-, Muster- und Zeichenwesen*, June, 1915.)

[Decree of June 24, 1915, of the Ministry of Public Works in accord with the Ministries of Commerce and Justice, which completes that of 24th of September, 1914, establishing exceptional provisions in the matter of trade-marks.]

By virtue of the Imperial Ordinance of the 29th of August, 1914, concerning the effects of the state of war on terms, lapses, and procedure, the following is decreed:

1. For the renewal of trade-marks which, by the terms of paragraph 16 of the law on trade-marks of the 6th of January, 1890, should be renewed beginning from the 26th of July, 1914, in order to maintain in force the right of these trade-marks, there is granted an extension until the expiration of three months, to be counted from the date which will be set by an ordinance.

2. The present Ordinance will come into force on the date of its publication. The Ordinance of December 24, 1914, will be abrogated from the same date.

(Signed)	TRUKA, <i>M. P.</i>
(Signed)	HOCHENBURGER, <i>M. P.</i>
(Signed)	SCHUSTER, <i>M. P.</i>

TRADE-MARKS—RENEWAL—PROLONGATION OF TERM—DECREE OF JUNE 24, 1915.

[Translation.]

[Decree of the Ministry of Public Works, with the consent of the Ministries of Commerce and Justice, of June 24, 1915 (*Reichsgesetzblatt*, No. 177), relating to a supplementing of the decree of Sept. 24, 1914 (translation of which see 13 P. & T. M. Rev., 35), by virtue of which, due to martial complications, exceptional measures are taken in matters relating to trade-mark protection.]

On the ground of the Imperial decree of August 29, 1914 (*Reichsgesetzblatt*, No. 227), relating to the influence of martial events upon days of grace, fixed terms and procedure it is decreed as follows:

ARTICLE 1.—SECTION 1. The decree of the Ministry of Public Works, with the consent of the Ministries of Commerce and Justice of September 24, 1914 (*Reichsgesetzblatt*, No. 257), shall read:

"A term up to three months, reckoned from the day to be fixed by decree, is granted for the renewal of marks that should have been renewed or are to be renewed within the period commencing from July 26, 1914, in order to maintain the trade-mark right in accordance with the provision of section 16 of the law for the protection of trade-marks of January 6, 1890 (*Reichsgesetzblatt*, No. 19)."

SEC. 2. This decree comes into operation on the day of publication.

The decree of December 24, 1914 (notice of which see 13 P. & T. M. Rev., 131), is abrogated simultaneously.

(From *Oesterreichisches Patentblatt*, 1915, p. 167.)

INDUSTRIAL PROPERTY—PRIORITY TERMS UNDER PARIS CONVENTION—PROLONGATION—APPLICABLE TO CERTAIN COUNTRIES—NOTIFICATION OF DECEMBER 1, 1915.

[Notification of the Minister of Public Works of Dec. 1, 1915, relating to exceptional provisions in respect of the terms of priority fixed under the Paris Convention for the protection of industrial property in favor of subjects or citizens of foreign countries.]

[Translation.]

On the ground of paragraph 3 of Article 2 and paragraph 5 of Article 2 of the decree of December 1, 1915 (14 P. & T. M. Rev., 133), having reference to exceptional provisions in respect of the terms of priority fixed under the Paris Convention for the protection of indus-

trial property, due to the state of war, the following notification is made:

1. That the terms of priority are prolonged in Austria at present in favor of the subjects or citizens of the following countries to the extent indicated below and in favor of subjects and citizens of such countries as:

Brazil, in respect of patent and trade-mark applications, insofar as the terms have not expired prior to August 1, 1914, to a day that shall be announced later on.

Denmark, in respect of patent applications, insofar as the terms have not expired prior to August 1, 1914, to January 1, 1916.

Germany, in respect of patent, design, and trade-mark applications, insofar as the terms have not expired prior to July 31, 1914, to a day to be announced later on.

Switzerland, in respect of patent applications, the first filing of which has been effected in a foreign country after July 31, 1913, and in respect of design applications, the first filing of which has been effected after March 31, 1914, preliminarily to December 31, 1915.

2. That at the present time there is granted to the Austrian subjects a privilege similar to that indicated in the provisions of Article 2 of the above mentioned decree, namely:

In Brazil for patent and trade-mark applications.

In Denmark for patent applications.

In Germany for patent, design, and trade-mark applications.

In Switzerland for patent and design applications.

(From *Blatt für Patent-, Muster- und Zeichenwesen*, Dec. 29, 1915.)

INDUSTRIAL PROPERTY—CONVENTION—PRIORITY—RECIPROCITY WITH UNITED STATES—"WAR MEASURES"—DECREE NO. 426, OF DECEMBER 23, 1916.

[Notice of the Minister of Public Works concerning the exceptional provisions taken in favor of citizens of the United States of America on the subject of the priority delays established by the International Convention for the Protection of Industrial Property.]

[Translation.]

By virtue of section 2, paragraph 5, of the decree of December 1, 1915, (*Reichsgesetzblatt*, No. 349), fixing, by reason of the state of war, exceptional provisions for the delays of priority provided for by the Convention of Paris for the Protection of Industrial Property, it is declared that in the United States of America there is granted to Austrian subjects, for patent applications and deposits in matters of designs, models, and trade-marks, a facility analagous to that provided for by section 2 of the above cited decree.

(Signed) TRUKA, M. P.

(From 33 *La Propriété Industrielle*, 2, of Jan. 31, 1917.)

PATENTS—DELIVERY MAY BE SUSPENDED—"WAR MEASURES"—
DECREE No. 82, OF MARCH 24, 1916.

[Translation.]

[Decree issued by the Minister of Public Works in agreement with the Minister of National Defense concerning the suspension of procedure for the delivery of patents of invention (No. 82, of Mar, 24, 1916).]

By virtue of the Imperial Decree of August 29, 1914 (*Reichsgesetzblatt*, No. 227), concerning the effects of the state of war on terms, expirations, and procedure, the following is decreed:

SECTION 1. (1) The procedure for the delivery of patents may be suspended by the Patent Office in the interest of national defense or in any other public interest for the duration of the present war.

(2) The suspended procedure shall be resumed at latest on a date that shall be fixed by a later decree.

PATENTS—FOREIGN APPLICATIONS—PROHIBITION OF DISCLOSURE TO
ENEMY—OFFICIAL CIRCULAR OF MAY 1, 1916.

[Translation.]

[Circular of the Ministry of National Defense concerning patent applications and workings in neutral and enemy countries (May 1, 1916).]

The improvements of means of war and the provisioning of populations in indispensable products are facilitated in a great measure by technical inventions. The State, therefore, has a greater interest not only in that inventions produced in this domain be placed at the disposal of the authorities charged with the conduct of the war and of public economy, but likewise in that they remain hidden from our enemies. It is for this reason that there is need to prevent as much as possible that they be known in enemy countries, or even in neutral countries, wherefrom they might be communicated easily to our enemies. It is, in consequence, in the interest of the country that, for the duration of the war, there be no applications filed in neutral or enemy countries for patents for the class of inventions, whereof it is a question. Whoever solicits in these countries protection for inventions of this class, or collaborates in such applications; whoever, by assigning such inventions, makes possible the application in these States, violates his most sacred patriotic duties and becomes liable in addition, according to the circumstances, to penal prosecution based on sections 327 to 329 of the Military Penal Code. According to these provisions, he commits a crime, liable to a heavy penalty, against the military power of the State, who renders himself guilty of an act or of an omission susceptible of injuring the military power of the State or of an allied army, or of giving advantage to the enemy.

For these same reasons, it is incumbent on all those interested to cease validifying, and, particularly, working in enemy or neutral countries their inventions protected by patents, when they are of military and economic importance whereof mention is above made.

Persons that have intention to file patent applications in enemy or neutral countries, or who are interested in the validation, and, particularly, in the working of inventions patented in these States, shall be able to inquire whether the invention has the character above indicated of the Committee called: "Prüfungskommission für den Auslandschriftenverkehr in Sachen des Gewerblichen Rechtsschutzes" (k. u. k. Technisches Militär-Komitee, Wien VI, Getreidmarkt 9). Those interested have thus the opportunity to be instructed very clearly as to bearing of their acts.

(From 32 *La Propriété Industrielle*, 53.)

INDUSTRIAL PROPERTY—ALIEN ENEMIES—"WAR MEASURES"—DECREE No. 258, OF AUGUST 16, 1916.

[Translation.]

[Decree of the Ministry in Plenary Council concerning reprisal measures in the domain of industrial property (No. 258, of Aug. 16, 1916).]

By virtue of Article 31 of the Patent Law of January 11, 1897 (*Reichsgesetzblatt*, No. 30), and of Article 1 of the Imperial Decree of October 16, 1914 (*Reichsgesetzblatt*, No. 289), concerning measures for reprisal in legal and economic matters affected by the present state of war, it is decreed, by virtue of the right of reprisal, as follows:

ARTICLE 1. (1) The Minister of Public Works may order, on petition, in the public interest, the restriction and suppression of patents and of rights in matters of designs and trade-marks belonging to subjects of France and Great Britain. He may, in particular, grant to third parties rights to the enjoyment of these rights.

(2) The decision may be modified or revoked at any time. It becomes effective, if another date is not fixed, the day on which it has been rendered. A retroactive effect may be given thereto. It shall be effective likewise as regards the successor to the right of the party entitled (the owner of the patent, or those entitled to the design, or trade-mark) against whom it has been rendered.

(3) The transfer to third parties of the right of use granted is valid only with the consent of the Minister of Public Works. This assent is not necessary when the right of use is transferred to the Military Administration or to the State Government or by this latter to others.

(4) Claims resulting from the grant of rights of use against persons in whose favor the decision has been made shall be legally enforced by the Administration of the State.

(5) Sums of money that are to be paid in accordance with the decision shall be paid into the treasury of the Patent Office. The Minister of Public Works, with the consent of the Minister of Finance, shall dispose of these payments by decree.

ART. 2. (1) The Minister of Public Works may order, on petition, the restriction and annulment of patents belonging to subjects of Russia. He may, in particular, grant to third parties, under conditions to be fixed by him, rights for the utilization of these privileges.

(2) The provisions of Article 1, paragraphs 2 and 5, are applicable.

ART. 3. (1) A petition based on Articles 1 and 2 shall be rejected when it is proven:

1. That a person not a subject of one of the enemy States named in Articles 1 and 2 is joint owner of the right, or

2. That there exists in this privilege a right of use granted—to the exclusion of other parties entitled to the use—to a person that does not belong to any of these countries, and that this legal situation (pars. 1 and 2) became effective before the date on which a state of war with the country in question commenced. (See Art. 8.)

(2) The existence of a right of utilization may be announced to the Ministry of Public Works, to be taken into consideration in the event of a decision to be rendered in accordance with Articles 1 and 2.

ART. 4. (1) The Minister of Public Works may, on petition, for the public interest, order the suppression of the rights of use that exist in favor of subjects of France, Great Britain, and Russia as to patents.

(2) The decision becomes effective, if another date has not been fixed, the day on which it has been rendered. A retroactive effect may be given thereto.

ART. 5. For the procedure relative to petitions based on Articles 1, 2, and 4 the following is provided:

1. The petition must be presented in writing to the Minister of Public Works.

2. The petition is subject, if it is not presented by the Military Administration or by the State, to a tax of fifty crowns for each right against which it is directed. The fee must be paid into the Treasury of the Patent Office.

3. If the Minister of Public Works does not reject the petition, without the introduction of procedure, a copy of the petition and of its accompanying papers shall be sent to the party interested, for the production of his response within the term that shall be fixed therefor. The petitioner shall furnish the requisite number of copies

of the petition and of the accompanying papers. If the party interested has no place of residence in the country, or no representative of his is known to be domiciled in the country, decision may be given on the petition without the interested party having been heard.

4. For probatory procedure, the provisions that regulate probatory procedure in actions for the revocation of patents shall be operative. The fulfillment of probatory procedure may be intrusted in whole or in part to the Patent Office. In this case, the President of the Patent Office shall designate a member of this office who shall conduct the procedure.

5. The duration for official terms shall be fixed after due consideration.

6. The decree of the Ministry in Plenary Council of September 15, 1914 (*Reichsgesetzblatt*, No. 245), is not applicable.

7. When notification is to be given to a person that does not reside within the country, or whose address is unknown, the publication in the *Oesterreichisches Patentblatt* of the essential contents of the notification to be made may be ordered. This publication shall have the same effects as the notification.

8. The procedure relative to an application for the suppression of a right may be continued officially after the withdrawal of the application.

9. Nothing shall be allowed to those interested for their expenses in the action and for representation.

10. The petition and the final decision that shall be given thereto, as well as the transfer of use granted, shall be recorded in the register (of patents, designs, or trade-marks), and published in *Oesterreichisches Patentblatt*, and, in addition, in *Zentralmarken-Anzeiger*, if it be a matter of trade-mark rights.

ART. 6. (1) The grant of patents to subjects of France, Great Britain, Italy, and Russia is postponed. Patent applications from subjects of these States shall be received.

(2) The President of the Patent Office may decide whether, and to what extent, independently of the provisions of the first paragraph, the procedure relative to patent applications emanating from subjects of the countries mentioned in the first paragraph, and relative to other matters pending before the Patent Office and in which subjects of these countries are interested, shall be interrupted.

(3) The registration of designs and trade-marks for subjects of France, Great Britain, Italy, and Russia remains suspended. Applications for the registration of designs and trade-marks shall be received from subjects of these States.

(4) These provisions are not applicable to the deposit of applications for patents, designs, and trade-marks, in which persons that do not belong to any of the countries designated in above paragraphs 1

and 3 are interested as joint applicants, if this legal situation occurred prior to the date whereon the state of war with the country in question took place. (See Art. 8.)

ART. 7. (1) The provisions of the present decree shall apply also to the rights and applications that have been transferred by subjects of the enemy countries in question after the date on which the state of war with the country in question commenced (Art. 8) to subjects of other States or to natives of this country.

(2) The enforcement of the provisions of the present decree shall not be prevented by the fact that, in order not to disclose the nationality of a subject of an enemy country, the name of a subject of another State or a native of this country is substituted.

ART. 8. The day on which the war broke out is reckoned to be, as to Russia, August 5, 1914, France and Great Britain, August 13, 1914, and as to Italy, May 24, 1915.

ART. 9. The subjects of the enemy countries named in the present decree include the subjects of their colonies and possessions.

ART. 10. (1) If another nationality is not proven, a person is considered to be a subject of the State, colony, or possession in whose domain he has domicile.

(2) Legal persons and corporations are included among the subjects of the State colony, and possession in whose territory they are domiciled.

(3) In so far as it is a question of the rights designated in Articles 1, 2, and 4, active establishments or branch establishments of commercial undertakings, coming within the scope of the provisions of the present decree, that are directed or supervised from those States, or from their colonies and possessions, or whose profits are to be remitted there in whole or in part, or whose capital belongs in whole or in part to subjects of those States, their colonies, and possessions, whatever may be their domicile, are placed on a par with subjects of France, Great Britain, and Russia.

ART. 11. The present decree shall become effective the day of its publication. The Minister of Public Works is authorized to abrogate it in whole or in part.

(Signatures of Ministers in Plenary Council.)

(From 32 *La Propriété Industrielle*, 102, of Sept. 30, 1916.)

INDUSTRIAL PROPERTY—ALIEN ENEMIES—"WAR MEASURES"—
RULES—OFFICIAL CIRCULAR—EFFECTIVE AUGUST 17, 1916.

[Translation.]

[Circular concerning the provisions that authorize the notification to the Ministry of Public Works of the rights of use as to patents, designs, and trade-marks that belong to subjects of enemy countries.]

In accordance with the decree of the Ministry in Plenary Council of August 16, 1916, No. 258, concerning measures for reprisal in the

domain of industrial property, the Minister of Public Works may order on petition in the public interest the restriction and annulment of patents and of rights in matters of designs and trade-marks belonging to subjects of France and Great Britain. He may in addition, on petition, order the restriction and annulment of patents belonging to subjects of Russia. However, such a petition must be rejected when it is proven that there exists to this contested right a right of use granted—to the exclusion of other parties entitled to use—to a person that does not belong to one of these countries, and that this legal situation took place prior to the date whereon the state of war with the country in question commenced. The existence of such right of utilization may be announced, for purposes of consideration, to the Ministry of Public Works, in order that a decision be rendered on the petition that will be presented. It will therefore be to the advantage of parties interested to announce the existence of such rights as soon as possible to the Ministry of Public Works, to the end that this latter be in position, when it shall issue its decree on the eventful petition for annulment or restriction of the private right with regard to which the right of use has been granted, to take into consideration this right of use, even when the Ministry would not obtain knowledge thereof through statements that the parties will make during the course of the procedure concerning the petition. This application should be made by means of a brief stamped one crown per sheet, and shall contain an exact indication of the patent, design, or trade-mark, in accordance with the number that it bears in the corresponding register (register of patents, designs, and trade-marks). It is not necessary to furnish other details concerning the right of use, nor produce documents, inasmuch as the proof of this right need be shown, not at the time of the application, but only in the procedure relative to the petition for suppression or restriction of the private right regarding which attempt is made to secure the right of use. For persons that are not domiciled in the country, it is recommended that they name, for this application, a special attorney resident in the country.

(From 32 *La Propriété Industrielle*, 102, of Sept. 30, 1916.)

BELGIUM.

[Law of the 24th of May, 1854, omitting transitory provisions.]

ARTICLE 1. Exclusive and temporary rights shall be granted, under the name of patents of invention, of improvement, or of importation, for every discovery or every improvement capable of being worked as an article of industry or of commerce.

ART. 2. Patents will be granted without previous examination at the risk and peril of the applicants, without guarantee either of the reality, or of the novelty, or of the merit of the invention, or of the correctness of the description, and without prejudice to the rights of third parties.

ART. 3. The duration of patents is fixed at twenty years, except in the case provided for in Article 14. It shall commence from the day on which the memorandum mentioned in Article 18 shall have been drawn up.

There shall be paid for every patent an annual and progressive tax as follows:

	Francs.
First year	10
Second year	20
Third year	30

and so on until the twentieth year, for which the tax shall be 200 francs. The tax shall be paid in advance, and in no case shall it be returned.

No tax shall be required for patents of improvement when they are granted to the owner of the principal patent.

ART. 4. Patents confer on their owners, or persons entitled through them (*leur ayant droits*), the exclusive right:

(a) Of working the patented article for their profit, or causing it to be worked by those whom they may authorize.

(b) Of prosecuting before the tribunals those persons who may attack their rights either by the manufacture of the products or the use of means included in the patent, or holding, selling, exposing for sale, or importing into Belgian territory one or several infringing articles.

ART. 5. If the persons prosecuted by virtue of Article 4 (b) have acted knowingly, the tribunals shall pronounce for the benefit of the patentee, or of persons entitled through him, the confiscation of articles manufactured in contravention of the patent, and the instruments and utensils specially destined for their manufacture, or allow a sum equal to the price of the articles which may have been already sold.

If the persons prosecuted have acted in good faith, the tribunals shall prohibit them under the above-mentioned penalties from using with a commercial object the machines and apparatus of production found to be infringements, and from making use for the same purpose of the instruments and utensils for manufacturing the articles patented.

In the one case and the other damages may be granted to the patentee or to persons entitled through him.

ART. 6. The owners of patents, or persons entitled through them, may, with the authorization of the president of the tribunal of first instance obtained on petition, cause the inventory of the apparatus, machines, and articles said to be infringements, to be made by one or several experts.

The president may by the same order prohibit the holders of the said articles from parting with them, and allow the patentee to appoint a guardian, or even place the articles under seal.

The order shall be served by an officer appointed for that purpose.

ART. 7. The patent shall be annexed to the petition, which shall contain election of domicile in the commune where the inventory has to be made. The experts appointed by the president shall be sworn by him, *or by the justice of the peace specially authorized by him for the purpose*, before commencing their operations.

[NOTE.—The words in italics were introduced by the law of Mar. 27, 1857.]

ART. 8. The president may impose on the patentee the obligation of depositing security. In that event the order of the president will only be delivered on proof of the deposit having been made.

[NOTE.—The latter part of the original article was repealed by the law of July 5, 1884.]

* * * * *

ART. 9. The patentee may be present at the inventory if he is specially authorized by the president of the tribunal.

ART. 10. If the doors are closed, or should their opening be refused, the procedure shall be in conformity with Article 587 of the Code of Civil Procedure.

ART. 11. A copy of the official report of the inventory shall be left with the holder of the articles inventoried.

ART. 12. If within a week the inventory is not followed up by a summons before the tribunal in the jurisdiction of which the inventory was made, the order issued in conformity with Article 6 shall cease to have effect, and the holder of the articles inventoried may claim the surrender of the original official report, with prohibition to the patentee of making use of or publishing its contents, all without prejudice to any damages.

ART. 13. The tribunals shall take cognizance of matters relating to patents as of summary and urgent business.

ART. 14. The author of a discovery already patented abroad may obtain by himself or by his assigns a patent of importation in Belgium. The duration of this patent shall not exceed that of the patent previously granted abroad for the longest term, and in no case the limit fixed by Article 3.

ART. 15. In the event of modifications in the object of the discovery, a patent of improvement may be obtained which shall terminate at the same time as the original patent.

However, if the owner of the new patent is not the original patentee, he can not, without the consent of the latter, make use of the original discovery, and reciprocally the original patentee can not work the improvement without the consent of the owner of the new patent.

ART. 16. Patents of importation and of improvement confer the same rights as patents of invention.

ART. 17. Every person who wishes to take out a patent shall be bound to deposit under seal in duplicate at the registry of one of the provincial governments of the kingdom, or at the office of a district commissary, complying with the formalities which will be settled by a royal decree, a clear and complete description in one of the languages used in Belgium, and an exact drawing to a metrical scale of the object of the invention.

No deposit shall be received without the production of a receipt proving the payment of the first annuity of the tax on the patent.

A memorandum setting out the day and the hour of the delivery of the papers, drawn up without charge by the provincial registrar or by the district commissary in a register kept for this purpose, and signed by the applicant, shall prove each deposit.

ART. 18. The legal date of the invention is proved by the memorandum drawn up at the time of the deposit of the application for the patent.

A duplicate of this memorandum will be given without charge to the depositor.

ART. 19. A decree of the Minister of the Interior, verifying the fulfillment of the prescribed formalities, will be delivered without delay to the depositor, and shall constitute his patent. Extracts from this decree will be inserted in the *Moniteur*.

ART. 20. The specifications of patents granted shall be published verbatim or in substance by the administration in a special collection three months after the grant of the patent. When the patentee shall require a complete publication or that of an extract supplied by him, the publication shall be made at his cost.

After the same term the public shall likewise be allowed to see the specifications, and copies of them may be obtained on paying the cost.

ART. 21. Every transfer of patent by act *inter vivos* or testamentary shall be registered, the fixed tax being 10 francs.

ART. 22. *When the tax fixed by Article 3 shall not have been paid within a month of coming due, the owner, after previous notice, shall, under penalty of being deprived of the rights which his title confers upon him, pay, before the expiration of six months from the date at which the tax was due, the sum of 10 francs, in addition to the annuity payable. Forfeiture of patents shall be published in the Moniteur.*

[NOTE.—The original article was repealed, and the words in italics substituted by the law of Mar. 27, 1857.]

ART. 23. The owner of a patent must work the patented article or cause it to be worked in Belgium within one year from the commencement of working abroad.

Nevertheless the Government may, by a royal decree stating reasons, inserted in the *Moniteur* before the expiration of that term, grant a prolongation of one year at most.

At the expiration of the first year, or of the extension which may have been granted, the patent shall be annulled by a royal decree.

The annulment shall likewise be pronounced when the patented article, worked abroad, shall have ceased to be worked in Belgium during the year, unless the owner of the patent justifies the causes of his inaction.

ART. 24. A patent shall be declared void by the tribunals for the following reasons:

(a) When it shall be proved that the patented article has been employed, put into use or worked, by a third party within the kingdom for a commercial purpose, before the legal date of the invention, importation or improvement.

(b) When the patentee in the description annexed to his application shall intentionally have omitted to make mention of a part of his secret, or shall have indicated it in an incorrect manner.

(c) When it shall be proved that the complete description and exact drawings of the patented article were, prior to the date of the deposit, brought out in a work or printed and published collection, unless as regards patents of importation that publication may be exclusively the result of a legal requirement.

ART. 25. A patent of invention shall be declared void by the tribunals in the event of the article for which it was granted having been previously patented in Belgium or abroad.

However, should the applicant possess the qualification required by Article 14, his patent can be maintained as a patent of importation according to the terms of the said article.

These provisions shall, the case arising, be applied to patents of improvement.

ART. 26. When the nullity or forfeiture of a patent shall have been pronounced according to the terms of Articles 24 and 25, by judgment or final decree, the cancellation of the patent shall be proclaimed by a royal decree.

The following are approved:

I. The additional act modifying the Convention of the 20th of March, 1883, and the annexed protocol, and concluded at Brussels on the 14th of December, 1900, between Belgium, Brazil, Denmark, the Dominican Republic, Spain, the United States of America, France, Great Britain, Italy, Japan, Norway, the Netherlands, Portugal, Servia, Sweden, Switzerland and Tunis.

* * * * *

BELGIUM—WAR LEGISLATION.

Belgium (German Occupation).

PATENTS—WORKING—"WAR MEASURES"—OFFICIAL STATEMENT.

[Translation.]

[Principles applied in matters concerning the avoidance of Belgian patents that have not been worked within the prescribed term.]

According to a communication from the Chief of Administration attached to the Governor General of Belgium, the following principles are applied in matters concerning Belgian patents that have not been worked within the prescribed term:

(1) There are no judicial or administrative tribunals qualified to pronounce the avoidance of patents, other than the Government, and, for the moment, the Governor General.

(2) According to the revised Convention of Paris of June 2, 1911, to which Belgium has adhered, a patent may be stricken with avoidance for reason of non-working only after a term of three years counted from the deposit of the application, and only in case the patentee shall not justify the reasons of his inaction.

(3) If the non-working of the patent is due to a case of *force majeure*, there shall be no reason for pronouncing its avoidance. The war shall be considered as a case of *force majeure*.

(4) In administrative practice, the proof that patents have been worked is not required in general. If, in exceptional cases, this proof is looked upon as necessary, it is the Administration that shall initiate the procedure. This latter shall then render its decision by keeping in view all the circumstances.

(Translated from 33 *La Propriété Industrielle*, June, 1917, p. 70, which credits *Blatt für Patent-, Muster- und Zeichenwesen*, 1916, p. 128.)

[Letter of Mar. 25, 1915, filing of patent applications and payment of taxes on patents
in occupied Belgium.]

The International Bureau has received from the Department of the Interior of the German Empire the following communication:

BERLIN W. 8,

Wilhelm Strasse 74, March 25, 1915.

Under the title "Belgium" the "Propriete industrielle" of 31st of December, 1914, published on page 162, column 3, a note regarding which I have the honor to communicate to you as follows: Patent applications can be filed in Belgium now as before, in conformity with provisions of the Belgian law of the 24th of May, 1854. The chancelleries of the new provincial administration continue to function and their registrars to receive patent applications. Taxes are paid as formerly through the receiver of registrations; in Brussels the qualified receiver is the receiver of various other taxes, Rue de Musee No. 4. The Registrar of Patents and the Patent Office have not left Brussels, and the activities of the office continue without interruption. At present the Director General can make use of the power which was previously conferred upon him to grant patent applications.

By order:

(Signed) JONQUIERES.

Belgium.

PATENTS—GRANTS—MINISTERIAL STATEMENT.

The Belgian Minister of Industry and Labor at Sainte-Adresse (Le Havre) requests us to publish the following statement:

The Belgian Government formally protests against the affirmation of the German Government, according to which patents may at the present time, as in the past, be delivered through the intermediary of the Bureau of Industrial Property of Brussels.

Patents are granted through ministerial decision; the Minister alone has the power to grant them.

And there can be no question of substituting the German authority for the Belgian, the act of delivery of patents not being among those that an invader may validly impose during the term of his occupation.

The Belgian Government reminds that an office for the reception of patent applications has been organized by it in the Bureaus of Ministry of Industry and Labor at Sainte-Adresse (le Havre), and that patent taxes may be paid at the Belgian Ministry of Finances at Sainte-Adresse.

(Translation from *La Propriété Industrielle*, May, 1915.)

INDUSTRIAL PROPERTY—TAXES—SOVEREIGNTY—STATUS.

Private advices from Berlin, as we go to press, referring to the payment of taxes in Belgium regarding which notice appeared in 12 P. & T. M. Rev., give assurance that taxes can not be paid to German

officials. It is stated that "only the Post Office at Brussels is controlled by the German Post Office, but not in any other Belgian towns so far."

PATENTS—TAXES—TEMPORARY RELIEF—DECREE OF SEPTEMBER 7, 1914.

[Translation.]

[Royal decree concerning the payments of patent taxes, Sept. 2, 1914.]

In view of Article 1 of the Royal Decree of May 7, 1900, which provides that "the payment of the first annuity of the tax established by Article 3 of the law of May 24, 1854, shall be made at the Office of Registry charged with the collection of the general revenue, established in the seat of a provincial government or of a commissary district. The following annuities shall be paid at the Office that has received the payment of the first annuity."

ARTICLE 1. The annuities of which mention has been made may be paid indiscriminately at any office in whose attributes is included the collection of patent taxes, until an undetermined date, in derogation of the final provisions of the above-mentioned articles.

ART. 2. The declarations shall be received with reservation of further verification.

ART. 3. Our Minister of Industry and Labor, and that of Finance, are charged, each for what concerns him, with the execution of the present decree.

(From 13 *Bolletino della proprietà intellettuale*, 222.)

PATENTS—TAXES—WAR MEASURES—DECREE OF AUGUST 5, 1914.

[Translation.]

[Royal decree of Aug. 5, 1914, relating to the prolongation of terms for the payment of patent taxes.]

We, Albert, King of the Belgians:

In view of Article 1 of the law of August 4, 1914, that particularly stipulates that "during the continuation of the state of war, according to the existing circumstances, the King may: 6. Delay the fulfillment of civil or commercial obligations."

In view of Article 22 of the law of May 24, 1854, relating to patents of invention, modified by the law of March 27, 1857, that reads thus: "When the tax fixed by Article 3 shall not have been paid within a month of coming due, the patent owner, after previous notice, shall, under penalty of forfeiture of his rights that his title confers upon him, pay before the expiry of six months from the date at which the patent tax was due 10 francs in addition to the annuity payable."

We have decreed and do decree:

ARTICLE 1. The execution of Article 22¹ of the law of May 24, 1854, modified by the law of March 27, 1857, is suspended for an indefinite period.

Owing to this, the previously cited provision for the terms for the payment of annual patent taxes that have not expired on (or before) August 5, 1914, are prolonged for a period to be determined later on.

ART. 2. Our Minister of Industry and Labor is charged with the execution of the present decree.

(From *Nachrichten für Handel, Industrie und Landwirtschaft*, No. 110 of Oct. 8, 1914, reprinted in *Blatt für Patent-, Muster- und Zeichenwesen*, Oct. 28, 1914.)

PATENTS—APPLICATIONS—PRIORITY—CONVENTION—EXTENSION OF
TERMS UNDER GERMAN AUTHORITY—NOTICE OF JUNE 23, 1915.

[Translation.]

We are indebted to Mr. G. Van der Haeghen, of Maastricht, for advices that in No. 90 of the *Official Journal* of the part occupied of Belgium there was published a notice, whereof we give the translation following:

“The terms of priority provided by Article 4 of the Convention of the Union of Paris, revised June 2, 1911, concerning the protection of industrial property (*Moniteur belge* of Aug. 6, 1914) are prolonged until new order, save terms that have expired before July 31, 1914.”

Brussels, June 29, 1915.

The Governor General in Belgium:

(Signed)

FREIHERR VON BISSING.

PATENTS—APPLICATIONS—TAXES—MINISTERIAL LETTER.

We are indebted to Messrs. J. Gevers & Cie., of Ste. Adresse-Havre, for copy of a letter by them received from the Ministry of Industry and Labor of Belgium, whereof we give a translation:

MINISTRY OF INDUSTRY AND LABOR OF BELGIUM.

Havre, April 21, 1915.

GENTLEMEN: Complying with your request, I have the honor of advising you that the extreme measures taken by the occupant for the closing of the frontier and the confidence instilled in the Belgian Government by the subjects of the allied and neutral countries have impelled it, in matters of industrial property, to take divers measures suited to circumstances.

The payment of annual taxes may be deferred until an undetermined date. However, in view of meeting the requests of those interested, desirous of not

¹ Term of six months grace.

taking advantage of the moratorium to the extent that they might in the matter, in full accord with the Belgium Government, a Receivers' Bureau has been opened for their convenience at Havre, a bureau that has full authority by virtue of the Royal Decree of September 2, 1914, whereof you will find herewith a copy of the text.

[For translation see 13 P. & T. M. Rev., 36.—Ed.]

In the same spirit, and having considered the necessity of overcoming the difficulties of communication with Belgium invaded, the Belgian Government has decided to admit from October 20, 1914, the filing of patent applications. These shall be validly received, in accordance with the law of May 24, 1854, which gives full powers to one of the bureaus of the Commissariats d'Arrondissements of the part of the country not occupied. In view, however, of simplifying the formalities, it has been allowed that the documents shall be received at the actual seat of the Government, at Havre, in order to fix the date of their receipt, which shall be confirmed by way of subsequent regularization.

Accept, gentlemen, the assurance of my high consideration,

The Minister:

(Signed)

ARM. HUBERT.

TO MESSRS. J. GEVERS & CIE.,

2 Avenue Désiré-Dehors, Ste-Adresse-Havre.

[Belgium order under German occupation.]

PATENTS—APPLICATIONS—TAXES.

An application for a patent shall, in accordance with Article 17 of the Belgian law of May 24, 1854, either be filed at the chancery of one of the nine provincial governments (*greffe de l'un des gouvernements provinciaux*) or at the office of a *commissariat d'arrondissement*.

Even if the German military governors, together with the appointed presidents of the civilian administrations, are now substituted for the provincial governors, the internal organization of the provincial administrations has, nevertheless, remained as of old; the registrar presiding over the above-named chancery continues with his functions, and applications for patents *may now*, as heretofore, be filed with him. The *commissaires d'arrondissements* have resigned from office in several localities, and "*district chiefs*" have been appointed in their places, who, however, perform different functions. Consequently it is not advisable to file applications with them, but it is recommended that they be filed solely at the chanceries of the provincial administrations. The patent taxes are, as formerly, paid to the *receveur de l'enregistrement*; the competent *receveur* for Brussels is the *receveur des produits divers*, rue du Musée 4.

(From *Nachrichten für Handel, Industrie und Landwirtschaft*, 1915, reprinted in *Patent-, Muster- und Zeichenwesen*, February, 1915.)

The regular compliance with the formal requirements, as provided under the Belgian law, upon filing an application for a patent is not prevented through the removal of the Belgian Government to Le Havre. Applications for patents are filed as before in the manner explained in *Blatt für Patent-, Muster- und Zeichenwesen*, 1915, page 24. The register of patents and the Office des Brevets have not been removed from Brussels; but the Director General delegated to grant patents no longer exercised his rights after the occupation, for the reason that he did not know whether the German administration would recognize the authorization conferred upon him by the Minister. The Director has been informed in the meantime, that there are no objections on the part of the German administration to the grant of patents by him, inasmuch as the authorization was conferred on him long before the war.

It seems that an application for a patent filed in Le Havre is invalid, since the application procedure is regulated by the Belgian law of May 24, 1854, and is in force now as heretofore.

(From a report of the Chief of the Governor General's Office in Belgium, published in *Patent-, Muster- und Zeichenwesen*, March 31, 1915.)

The following notice is a translation from *Moniteur Belge* of September 2 and 3, 1914:

Ministry of Industry and Work and Ministry of Finance.

Payment of Taxes on Patents.

Albert, King of the Belgians, to all present and to come, greeting:

In view of Article 1 of the Royal Decree of May 7, 1900, providing that "the first annual payment of the tax fixed by Article 3 of the law of May 24, 1854, shall be made at the office of registration charged with the receipt of various revenues established at the principal town of a provincial government or 'commissariat of arrondissement.' The following annual payments must be made at the office where the first payment has been received," we have decreed and hereby do decree:

ARTICLE 1. Departing from the foregoing article, the annual payments, until a date not yet fixed, may be made at any office entitled to receive the payment of taxes (or fees) on patents.

ART. 2. Applications shall be received subject to later examination.

ART. 3. Our Minister of Industry and Work and our Minister of Finance, each as far as he is concerned, is charged with the execution of this decree.

Done at Antwerp, September 2, 1914.

ALBERT.

For the King:

ARM. HUBERT,

Minister of Ind. and Work.

A. VAN VYVERE,

Minister of Finance.

CANADA.

[Revised Statutes of Canada, 1906, ch. 69.]

AN ACT RESPECTING PATENTS OF INVENTION.

SHORT TITLE.

1. This Act may be cited as the Patent Act (R. S., c. 61, s. 1).

INTERPRETATION.

2. In this Act, unless the context otherwise requires—

(a) "Minister" means the Minister of Agriculture.

(b) "Commissioner" means the Commissioner of Patents, and "Deputy Commissioner" means the Deputy Commissioner of Patents.

(c) "Invention" means any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement in any art, machine, manufacture or composition of matter.

(d) "Legal representatives" includes heirs, executors, administrators and assigns, or other legal representatives. (R. S., c. 61, s. 2.)

PATENT OFFICE AND APPOINTMENT OF OFFICERS.

3. There shall be attached to the Department of Agriculture, as a branch thereof, an office which shall be called the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents. (R. S., c. 61, s. 3.)

4. The Commissioner shall receive all applications, fees, papers, documents, and models for patents, and shall perform and do all acts and things requisite for the granting and issuing of patents of invention; and he shall have the charge and custody of the books, records, papers, models, machines, and other things belonging to the Patent Office. (R. S., c. 61, s. 4.)

5. The Deputy Minister of Agriculture shall be the Deputy Commissioner, and the Governor in Council may, from time to time, appoint such officers and clerks under the Deputy Commissioner as are necessary for the purposes of this act, and such officers and clerks shall hold office during pleasure.

(2) The Deputy Commissioner may do any act or thing, whether judicial or ministerial, which the Commissioner of Patents is authorized or empowered to do by any provision of this Act; and, in the absence of the Deputy Commissioner, any person performing the duties of the Deputy Minister of Agriculture under the authority of the Civil Service Act may, as acting deputy commissioner, do any such act or thing. (60-61 V., c. 25, s. 1; 3 S. VII, c. 46, s. 1.)

6. The Commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith every patent and other instrument and copy thereof issuing from the Patent Office. (R. S., c. 61, s. 6.)

APPLICATIONS FOR PATENTS.

7. Any person who has invented any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement in any art, machine, manufacture or composition of matter, which was not known or used by any other person before his invention thereof, and which has not been in public use or on sale with the consent or allowance of the inventor thereof, for more than one year previously to his application for patent therefor in Canada, may, on a petition to that effect, presented to the Commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property in such invention.

(2) No patent shall issue for an invention which has an illicit object in view, or for any mere scientific principle or abstract theorem. (R. S., c. 61, s. 7.)

8. Any inventor who elects to obtain a patent for his invention in a foreign country before obtaining a patent for the same invention in Canada, may obtain a patent in Canada, if the patent is applied for within one year from the date of the issue of the first foreign patent for such invention.

(2) If within three months after the date of the issue of a foreign patent, the inventor gives notice to the Commissioner of his intention to apply for a patent in Canada for such invention, then no other person having commenced to manufacture the same device in Canada during such period of one year, shall be entitled to continue the manufacture of the same after the inventor has obtained a patent therefor in Canada, without the consent or allowance of the inventor.

(3) No Canadian patent issued previous to the thirteenth day of August, one thousand nine hundred and three, shall be deemed to have expired before the end of the term for which it was granted merely because of the expiry of a foreign patent for the same invention. (55-56 V., c. 24, s. 1; 3 E. VII, c. 46, s. 2.)

9. Any person who has invented any improvement on any patented invention, may obtain a patent for such improvement; but he shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement. (R. S., c. 61, s. 9.)

10. Every inventor shall, before a patent can be obtained, make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is the inventor of the invention for which the patent is asked, and that the several allegations in the petition contained are respectively true and correct.

(2) In the event of the inventor being dead, such oath or affirmation shall be made by the applicant, and shall state that he verily believes that the person whose assignee or legal representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct.

(3) Such oath or affirmation may be made before a minister plenipotentiary, *chargé d'affaires*, consul, vice consul or consular agent, a judge of any court, a notary public, a justice of the peace, or the mayor of any city, borough, or town, or a commissioner for taking affidavits having authority or jurisdiction within the place where the oath may be administered. (R. S., c. 61, s. 10; 55-56 V., c. 24, s. 2.)

11. The applicant for a patent shall, for the purposes of this Act, elect his domicile at some known and specified place in Canada, and shall mention the same in his petition for a patent. (R. S., c. 61, s. 11.)

12. The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification in duplicate of the invention and an additional or third copy of the claim or claims. (56 V., c. 34, s. 1.)

13. The specification shall correctly and fully describe the mode or modes of operating the invention, as contemplated by the inventor; and shall state clearly and distinctly the contrivances and things which he claims as new and for the use of which he claims an exclusive property and privilege.

(2) Such specification shall bear the name of the place where, and the date when it is made, and shall be signed by the inventor, if he is alive, and, if not, by the applicant, and by two witnesses to such signature of the inventor or applicant.

(3) In the case of a machine the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same.

(4) In the case of a machine, or in any other case in which the invention admits of illustration by means of drawings, the applicant

shall also, with his application, send in drawings in duplicate, showing clearly all parts of the invention; and each drawing shall bear the signature of the inventor, if he is alive, and, if not, of the applicant, or of the attorney of such inventor or applicant, and shall have written references corresponding with the specification; but the Commissioner may require further drawings or dispense with any of them, as he sees fit.

(5) One duplicate of the specification and of the drawings, if there are drawings, shall be annexed to the patent, of which it shall form an essential part, and the other duplicate shall remain deposited in the Patent Office.

(6) The Commissioner may, in his discretion, dispense with the duplicate specification and drawing, and in lieu thereof cause copies of the specification and drawing, in print or otherwise, to be attached to the patent, of which they shall form an essential part. (R. S., c. 61, s. 13.)

14. In all cases in which the invention admits of representation by model, the applicant, if required by the Commissioner, shall furnish a model of convenient size exhibiting its several parts in due proportion; and when the invention is a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of the ingredients, and of the composition, sufficient in quantity for the purpose of experiment.

(2) If such ingredients or composition be of an explosive or dangerous character, they shall be furnished with such precautions as are prescribed in the requisition therefor. (55-56 V., c. 24, s. 3.)

15. On each application for a patent, a thorough and reliable examination shall be made by competent examiners to be employed in the Patent Office for that purpose. (55-56 V., c. 24, s. 8.)

16. No application for a patent shall be withdrawn without the consent in writing of each and every registered assignee of such patent or any part thereof. (55-56 V., c. 24, s. 4.)

REFUSAL TO GRANT PATENTS.

17. The Commissioner may object to grant a patent in any of the following cases:

(a) When he is of opinion that the alleged invention is not patentable in law.

(b) When it appears to him that the invention is already in the possession of the public, with the consent or allowance of the inventor.

(c) When it appears to him that there is no novelty in the invention.

(d) When it appears to him that the invention has been described in a book or other printed publication before the date of the application, or is otherwise in the possession of the public.

(e) When it appears to him that the invention has already been patented in Canada, unless the Commissioner has doubts as to whether the patentee or the applicant is the first inventor.

(f) When it appears to him that the invention has already been patented in a foreign country, and the year has not expired within which the foreign patentee may apply for a patent in Canada, unless the Commissioner has doubts as to whether the foreign patentee or the applicant is the first inventor. (R. S., c. 61, s. 16.)

18. Whenever the Commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect and shall state the ground or reason therefor, with sufficient detail to enable the applicant to answer, if he can, the objection of the Commissioner. (R. S. c. 61, s. 17.)

19. Every applicant who has failed to obtain a patent by reason of the objection of the Commissioner, as aforesaid, may, at any time within six months after notice thereof has been mailed, addressed to him or his agent, appeal from the decision of the Commissioner to the Governor in Council. (R. S., c. 61, s. 18.)

CONFLICTING APPLICATIONS.

20. In case of conflicting applications for any patent, the same shall be submitted to the arbitration of three skilled persons, two of whom shall be chosen by the applicants, one by each, and the third of whom shall be chosen by the Commissioner; and the decision or award of such arbitrators, or of any two of them, delivered to the Commissioner in writing, and subscribed by them or any two of them, shall be final, as far as concerns the granting of the patent.

(2) If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the Commissioner, and if there are only two such applicants, the patent shall issue to the other applicant.

(3) If there are more than two conflicting applications, and if the persons applying do not all unite in appointing three arbitrators, the Commissioner may appoint the three arbitrators for the purposes aforesaid.

(4) The arbitrators so named shall subscribe and take before a judge of any court of record in Canada, an oath in the form following, that is to say:

"I, the undersigned (A. B.), being duly appointed an arbitrator under the authority of the Patent Act, do hereby solemnly swear *or* (affirm, *as the case may be*), that I will well and truly perform the duty of such arbitrator on the conflicting applications of (C. D. and E. F.) submitted to me."

(5) The arbitrators, or any one of them, when so sworn, may summon before them any applicant or other person, and may require him to give evidence on oath, orally, or in writing (or on solemn affirmation, if such applicant or person is entitled to affirm in civil cases), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and they shall have the same power to enforce the attendance of such applicants and other persons, and to compel them to give evidence, as is vested in any court of justice in civil cases, in the province in which the arbitration is held.

(6) The fees for the services of such arbitrators shall be a matter of agreement between the arbitrators and the applicants, and shall be paid by the applicants who name them, respectively, except those of the arbitrator or arbitrators named by the Commissioner, which shall be paid by the applicants jointly. (R. S., c. 61, s. 19.)

GRANT AND DURATION OF PATENTS.

21. Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification, and shall grant to the patentee and his legal representatives, for the term therein mentioned, from the granting of the same, the exclusive right, privilege and liberty of making, constructing, and using, and vending to others to be used, the said invention, subject to adjudication in respect thereof before any court of competent jurisdiction.

(2) In cases of joint applications, the patents shall be granted in the names of all the applicants. (R. S., c. 61, s. 20.)

22. Every patent shall be issued under the seal of the Patent Office and the signature of the Commissioner or of the Deputy Commissioner, and, when duly registered, shall be good, and shall avail the grantee and his legal representatives for the term mentioned in the patent.

(2) The Commissioner may require that any patent, before it is signed by the Commissioner or by any other member of the King's Privy Council for Canada, acting for him, and before the seal hereinbefore mentioned is affixed to it, shall be examined by the Minister of Justice; and, if such examination is so required, the Minister of Justice shall, accordingly, examine it, and if he finds it conformable to law, he shall certify accordingly, and such patent may then be signed, and the seal affixed thereto. (R. S., c. 61, s. 21; 56 V., c. 34, s. 2.)

23. The term limited for the duration of every patent of invention issued by the Patent Office shall be eighteen years; but, at the time of the application therefor, it shall be at the option of the applicant to pay the full fee required for the term of eighteen years, or the partial

fee required for the term of six years, or the partial fee required for the term of twelve years.

(2) If a partial fee only is paid, the proportion of the fee shall be stated in the patent, and the patent shall, notwithstanding anything herein or in this Act contained, cease at the end of the term for which the partial fee has been paid, unless before the expiration of the said term the holder of the patent pays the fee required for the further term of six or twelve years, and obtains from the Patent Office a certificate of such payment in the form which is, from time to time, adopted, which certificate shall be attached to and refer to the patent, and shall be under the signature of the Commissioner or of the Deputy Commissioner.

(3) If such second payment, together with the first payment, makes up only the fee required for twelve years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of twelve years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining six years, making up the full term of eighteen years, and obtains a like certificate in respect thereof. (55-56 V., c. 24, s. 5; 56 V., c. 34, s. 3.)

RE-ISSUE OF PATENTS.

24. Whenever any patent is deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification made by such patentee, to be issued to him for the same invention, for any part or for the whole of the then unexpired residue of the term for which the original patent was, or might have been granted.

(2) In the event of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or his legal representatives.

(3) Such new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent.

(4) The Commissioner may entertain separate applications, and cause patents to be issued for distinct and separate parts of the invention patented, upon payment of the fee for a re-issue for each of such re-issued patents. (R. S., c. 61, s. 23.)

DISCLAIMERS.

25. Whenever, by any mistake, accident, or inadvertence, and without any willful intent to defraud or mislead the public, a patentee has—

(a) Made his specification too broad, claiming more than that of which he or the person through whom he claims was the first inventor; or,

(b) In the specification, claimed that he or the person through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no lawful right;

the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof.

(2) Such disclaimer shall be in writing, and in duplicate, and shall be attested in the manner hereinbefore prescribed, in respect of an application for a patent; one copy thereof shall be filed and recorded in the office of the Commissioner, and the other copy thereof shall be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification.

(3) Such disclaimer shall not affect any action pending at the time of its being made, except in so far as relates to the question of unreasonable neglect or delay in making it.

(4) In case of the death of the original patentee, or of his having assigned the patent, a like right shall vest in his legal representatives, any of whom may make disclaimer.

(5) The patent shall thereafter be deemed good and valid for so much of the invention as is truly the invention of the disclaimant, and is not disclaimed, if it is a material and substantial part of the invention, and is definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain an action or suit in respect of such part accordingly. (R. S., c. 61, s. 24.)

ASSIGNMENTS.

26. The patent may be granted to any person to whom the inventor, entitled under this Act to obtain a patent, has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the legal representatives of the deceased inventor. (R. S., c. 61, s. 25.)

27. Every patent issued for an invention shall be assignable in law, either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and every grant and

conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention patented, within and throughout Canada or any part thereof, shall be registered in the Patent Office in the manner, from time to time, prescribed by the Commissioner for such registration; and every assignment affecting a patent for invention shall be null and void against any subsequent assignee, unless such instrument is registered as hereinbefore prescribed, before the registration of the instrument under which such subsequent assignee claims. (R. S., c. 61, s. 26.)

28. In cases of joint applications or grants, every assignment from one or more of the applicants or patentees to the other or others, or to any other person, shall be registered in like manner as other assignments. (R. S., c. 61, s. 27.)

IMPEACHMENT AND OTHER LEGAL PROCEEDINGS IN RESPECT OF PATENTS.

29. A patent shall be void, if any material allegation in the petition or declaration of the applicant hereinbefore mentioned in respect of such patent is untrue, or if the specifications and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, when such omission or addition is wilfully made for the purpose of misleading: Provided that if it appears to the court that such omission or addition was an involuntary error, and if it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and shall determine as to costs, and the patent shall be held valid for such part of the invention described, as the patentee is so found entitled to.

(2) Two office copies of such judgment shall be furnished to the Patent Office by the patentee, one of which shall be registered and remain of record in the office, and the other of which shall be attached to the patent, and made a part of it by a reference thereto. (R. S., c. 61, s. 28.)

30. Every person who, without the consent in writing of the patentee, makes, constructs, or puts in practice any invention for which a patent has been obtained under this Act or any previous Act, or who procures such invention from any person not authorized by the patentee or his legal representatives to make or use it, and who uses it, shall be liable to the patentee or his legal representatives in an action of damages for so doing; and the judgment shall be enforced, and the damages and costs that are adjudged shall be recoverable, in like manner as in other cases in the court in which the action is brought. (R. S., c. 61, s. 29.)

31. Any action for the infringement of a patent may be brought in the court of record having jurisdiction, to the amount of the dam-

ages claimed, in the province in which the infringement is alleged to have taken place, which holds its sittings nearest to the place of residence or of business of the defendant; and such court shall decide the case and determine as to costs. (R. S., c. 61, s. 30.)

32. In any action for the infringement of a patent, the court, or any judge thereof, may, on the application of the plaintiff, or defendant respectively, make such order as the court or judge sees fit.

(a) Restraining or for an injunction restraining the opposite party from further use, manufacture or sale of the subject-matter of the patent, and for his punishment in the event of disobedience of such order; or,

(b) For and respecting inspection or account; and,

(c) Generally respecting the proceedings in the action.

(2) An appeal shall lie from any such order under the same circumstances, and to the same court, as from other judgments or orders of the court in which the order is made. (R. S., c. 61, s. 31.)

33. Whenever the plaintiff, in any such action, fails to sustain the same, because his specification and claim embrace more than that of which he was the first inventor, and it appears that the defendant used or infringed any part of the invention justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly. (R. S., c. 61, s. 32.)

34. The defendant, in any such action, may plead as matter of defense, any fact or default which, by this Act, or by law, renders the patent void; and the court shall take cognizance of such pleading and of the facts connected therewith, and shall decide the case accordingly. (R. S., c. 61, s. 33.)

35. Any person who desires to impeach any patent issued under this Act may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the prothonotary or clerk of any of the divisions of the High Court of Justice in Ontario, or of the Superior Court of Quebec, or of the Supreme Court in Nova Scotia, New Brunswick, British Columbia or Prince Edward Island, respectively, or of the Court of King's Bench in Manitoba, or of the Supreme Court of the Northwest Territories in the Provinces of Saskatchewan and Alberta respectively, pending the disestablishment of that Court by the legislature of those provinces respectively, and thereafter of such superior court of justice as, in respect of civil jurisdiction, is established by the said legislatures respectively, in lieu thereof, or of the Territorial Court in the Yukon Territory, according to the domicile elected by the patentee, as aforesaid, or in the office of the registrar of the Exchequer Court of Canada, and such courts, respectively, shall adjudicate on the matter and decide as to costs; and if the domicile elected by the patentee is in that part of Canada

formerly known as the district of Keewatin, the Court of King's Bench of Manitoba shall have jurisdiction until there is a superior court therein, after which such superior court shall have jurisdiction.

(2) The patent and documents aforesaid shall then be held as of record in such courts respectively, so that a writ of *scire facias*, under the seal of the court, grounded upon such record, may issue for the repeal of the patent, for cause as aforesaid, if, upon proceedings had upon the writ in accordance with the meaning of this Act, the patent is adjudged to be void. (R. S., c. 61, s. 34; 53 V., c. 13, s. 1.)

36. A certificate of the judgment avoiding any patent shall, at the request of any person filing it to make it of record in the Patent Office, be entered on the margin of the enrollment of the patent in the Patent Office, and the patent shall thereupon be and be held to have been void and of no effect, unless the judgment is reversed on appeal as hereinafter provided. (R. S., c. 61, s. 35.)

37. The judgment declaring or refusing to declare any patent void shall be subject to appeal to any court having appellate jurisdiction in other cases decided by the court by which such judgment was rendered. (R. S., c. 61, s. 36.)

CONDITIONS AND EXTENSION.

38. Every patent shall, unless otherwise ordered by the Commissioner as hereinafter provided, be subject, and expressed to be subject, to the following conditions:

(a) Such patent and all the rights and privileges thereby granted shall cease and determine, and the patent shall be null and void at the end of two years from the date thereof, unless the patentee or his legal representatives, within that period or an authorized extension thereof, commence, and after such commencement, continuously carry on in Canada, the construction or manufacture of the invention patented, in such a manner that any person desiring to use it may obtain it, or cause it to be made for him at a reasonable price, at some manufactory or establishment for making or constructing it in Canada.

(b) If, after the expiration of twelve months from the granting of a patent, or an authorized extension of such period, the patentee or patentees, or any of them, or his or their or any of their legal representatives, for the whole or a part of his or their or any of their interest in the patent, import or cause to be imported into Canada, the invention for which the patent is granted, such patent shall be void as to the interest of the person or persons so importing or causing to be imported. (3 E. VII., c. 46, s. 4.)

39. Whenever a patentee is unable to commence or carry on the construction or manufacture of his invention within the two years hereinbefore provided, the Commissioner may, at any time not more

than three months before the expiration of that term, grant to the patentee or his legal representatives an extension of the term of two years, on his proving to the satisfaction of the Commissioner that his failure to commence or carry on such construction or manufacture is due to reasons beyond his control. (3 E. VII., c. 46, s. 5.)

40. The Commissioner may grant to the patentee or his legal representatives, for the whole or any part of the patent, an extension for a further term not exceeding one year, during which he may import or cause to be imported into Canada the invention for which the patent is granted, if he or they show cause, satisfactory to the Commissioner, to warrant the granting of such extension; but no extension shall be granted unless application is made to the Commissioner at some time within three months before the expiry of the twelve months aforesaid. (3 E. VII., c. 46, s. 6.)

41. The validity of any extension granted or assumed to be granted before the 13th day of August, 1903, of the period of two years theretofore limited by statute in that behalf for the commencement of the construction or manufacture of a patented invention, or of the period of twelve months theretofore so limited for the importation of a patented invention, shall not be open to impeachment, nor shall the patent for any invention in respect of which any such extension had been so granted be deemed to have lapsed or expired, because—

(a) Such extension, instead of being granted by the Commissioner, was so granted or assumed to be granted by the Deputy Commissioner, or, as acting deputy commissioner, by a person performing the duties of the Deputy Minister of Agriculture under the provisions of the Civil Service Act in that behalf, instead of by the Commissioner; or,

(b) In the case of the invention to which such extension relates, there has been granted or assumed to be granted a previous extension or previous extensions of such period of two years, or such period of twelve months, as the case may be. (3 E. VII., c. 46, s. 9.)

42. The validity of any patent granted before the 13th day of August, 1903, shall not be impeached, nor shall such patent be deemed to have lapsed or expired, by reason of the failure of the patentee to construct or manufacture the patented invention, if the patentee within the period of two years from the date of the patent allowed for such construction or manufacture, or within an authorized extension of that period, became, and at all times thereafter continued to be, ready either to furnish the patented invention himself or to license the right of using it, on reasonable terms, to any person desiring to use it, and if the patentee, or his legal representatives, within six months from the 13th day of August, 1903, had—

(a) Commenced, and after such commencement continuously carried on in Canada, the construction or manufacture of the patented

invention in such manner as to enable any person desiring to use it to obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada; or,

(b) Applied for and thereupon obtained an order of the Commissioner making the patent subject to the condition hereinafter provided for authorizing application for the issue of licenses to make, construct, use and sell the patented invention. (3 E. VII., c. 46, s. 10.)

43. In the case of any patent which before the 13th day of August, 1903, had become void or the validity of which might have been impeached, and which was revived or protected from impeachment by any provision of the Act, passed in the third year of His Majesty's reign, chapter 46, entitled "*An Act to amend the Patent Act*," or which, by reason of any such provision, is to be deemed not to have elapsed or expired, any person who had, between the time when such patent became void or the ground for such impeachment arose, and the 13th day of August, 1903, aforesaid, commenced to manufacture, use or sell in Canada the invention covered by such patent, may continue to manufacture, use or sell it in as full and ample a measure as if such revival or protection from impeachment had not been effected; and, in case any person had, before the 13th day of August aforesaid, contracted with the owner of the patent for the right to manufacture, use or sell such invention in Canada, the contract shall be deemed to have remained in full force and effect notwithstanding that the patent had become void as aforesaid, unless the person who had so contracted with such owner can show that in the meantime, by reason or on the faith of such invalidity or lapsing, he has materially altered his position with respect to such invention, and that the revival of such contract would cause him damage. (3 E. VII., c. 46, s. 14.)

44. On the application of the applicant for a patent, previous to the issue thereof, or on the application within six months after the issue of a patent of the patentee or his legal representatives, the Commissioner, having regard to the nature of the invention, may order that such patent, instead of being subject to the condition with respect to the construction and manufacture of the patented invention hereinbefore provided, shall be subject to the following conditions, that is to say:

(a) Any person, at any time while the patent continues in force, may apply to the Commissioner by petition for a license to make, construct, use and sell the patented invention, and the Commissioner shall, subject to general rules which may be made for carrying out this section, hear the person applying and the owner of the patent and, if he is satisfied that the reasonable requirements of the public in reference to the invention have not been satisfied by reason of the

neglect or refusal of the patentee or his legal representatives to make, construct, use or sell the invention, or to grant licenses to others on reasonable terms to make, construct, use or sell the same, may make an order under his hand and the seal of the Patent Office requiring the owner of the patent to grant a license to the person applying therefor, in such form, and upon such terms as to the duration of the license, the amount of the royalties, security for payment, and otherwise, as the Commissioner, having regard to the nature of the invention and the circumstances of the case, deems just;

(b) The Commissioner may, if he thinks fit, and shall on the request of either of the parties to the proceedings, call in the aid of an assessor, specially qualified, and hear the case wholly or partially with his assistance;

(c) The existence of one or more licenses shall not be a bar to an order by the Commissioner for, or to the granting of a license on any application, under this section; and,

(d) The patent and all rights and privileges thereby granted shall cease and determine, and the patent shall be null and void, if the Commissioner makes an order requiring the owner of the patent to grant any license, and the owner of the patent refuses or neglects to comply with such order within three calendar months next after a copy of it is addressed to him or to his duly authorized agent. (3 E. VII., c. 46, s. 7.)

45. Any question which arises as to whether a patent, or any interest therein, has or has not become void under any of the provisions of the seven last preceding sections of this Act, may be adjudicated upon by the Exchequer Court of Canada, which court shall have jurisdiction to decide any such questions upon information in the name of the Attorney General of Canada, or at the suit of any person interested; but this section shall not be held to take away or affect the jurisdiction which any court other than the Exchequer Court of Canada possesses. (3 E. VII., c. 46, s. 8.)

CAVEATS.

46. Any intending applicant for a patent who has not yet perfected his invention and is in fear of being despoiled of his idea may file, in the Patent Office, a description of his invention so far as it has proceeded, with or without plans, at his own will; and the Commissioner, on payment of the fee in this Act prescribed, shall cause the said document, which shall be called a *caveat*, to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said applicant or by any judicial tribunal, but the secrecy of the document shall cease when the applicant obtains a patent for his invention.

(2) If application is made by any other person for a patent for any invention with which such *caveat* may, in any respect, interfere, the Commissioner shall forthwith give notice by mail, of such application, to the person who has filed such *caveat*, and such person shall, within three months after the date of mailing the notice, if he wishes to avail himself of the *caveat*, file his petition and take the other steps necessary on an application for a patent, and if, in the opinion of the Commissioner, the applications are conflicting, like proceedings may be had in all respects as are by this Act provided in the case of conflicting applications.

(3) Unless the person filing a *caveat* makes application within one year from the filing thereof for a patent, the Commissioner shall be relieved from the obligation of giving notice, and the *caveat* shall then remain as a simple manner of proof as to novelty or priority of invention, if required. (R. S. c. 61, s. 38.)

PATENT FEES.

47. The following fees shall be payable before an application for any of the purposes herein mentioned shall be received by the Commissioner, that is to say:

Full fee for 18 years	\$60. 00
Partial fee for 12 years	40. 00
Partial fee for 6 years	20. 00
Fee for further term of 12 years	40. 00
Fee for further term of 6 years	20. 00
On lodging a <i>caveat</i>	5. 00
On asking to register a judgment <i>pro tanto</i>	4. 00
On asking to register an assignment, or any other document affecting or relating to a patent	2. 00
For each and every patent mentioned in any notice given to the Commissioner by the inventor after the issue of a foreign patent of his intention to apply for a patent in Canada for such invention	2. 00
On asking to attach a disclaimer to a patent	2. 00
On asking for a copy of patent with specification	4. 00
On petition to re-issue a patent after surrender, in addition to the fees on the original patent which shall, notwithstanding such surrender, continue to be payable as aforesaid, for every unexpired year of the duration of the original patent	4. 00

On office copies of documents, not above mentioned, the following charges shall be made:

For every single or first folio of one hundred words certified copy	\$0. 25
For every such subsequent folio, fractions of or under one-half not being counted, and of one-half or more being counted as a folio	0. 10
(55-56 V., c. 24, s. 7; 56 V., c. 34, s. 4; 3 E. VII., c. 46, s. 11.)	

48. For every copy of drawings, the person applying shall pay such sum as the Commissioner considers a fair remuneration for the

time and labour expended thereon by any officer of the Patent Office, or of the Department, or person employed to perform such service. (R. S., c. 61, s. 40.)

49. The said fees shall be in full of all services performed under this Act, in any such case, by the Commissioner or any person employed in the Patent Office. (R. S., c. 61, s. 41.)

50. All fees received under this Act shall be paid over to the Minister of Finance, and shall form part of the Consolidated Revenue Fund of Canada, except such sums as are paid for copies of drawings when made by persons not receiving salaries in the Patent Office. (R. S., c. 61, s. 42.)

51. No person shall be exempt from the payment of any fee or charge payable in respect of any services performed for such person under this Act; and no fee, when paid, shall be returned to the person who paid it, except—

(a) When the invention is not susceptible of being patented.

(b) When the petition for a patent is withdrawn.

(2) In every such case the commissioner may return the fee paid less the sum of ten dollars. (R. S., c. 61, s. 43.)

GENERAL.

52. The Government of Canada may, at any time, use any patented invention, paying to the patentee such sum as the Commissioner reports to be a reasonable compensation for the use thereof. (R. S., c. 61, s. 44.)

53. No patent shall extend to prevent the use of any invention in any foreign ship or vessel, if such invention is not so used for the manufacture of any goods to be vended within or exported from Canada. (R. S., c. 61, s. 45.)

54. Every person who, before the issuing of a patent, has purchased, constructed, or acquired any invention for which a patent is afterwards obtained under this Act, shall have the right of using and vending to others the specific article, machine, manufacture or composition of matter patented and so purchased, constructed, or acquired before the issue of the patent therefor, without being liable to the patentee or his legal representatives for so doing; but the patent shall not, as regards other persons, be held invalid by reason of such purchase, construction, or acquisition or use of the invention, by the person first aforesaid or by those to whom he has sold the same, unless the same was purchased, constructed, acquired, or used, with the consent or allowance of the inventor thereof, for a longer period than one year before the application for a patent therefor, thereby making the invention one which has become public and in public use. (R. S., c. 61, s. 46.)

55. Every patentee under this Act shall stamp or engrave on each patented article sold or offered for sale by him the year of the date of the patent applying to such article, thus *Patented, 1906*, or as the case may be; or when, from the nature of the article, this can not be done, then by affixing to it, or to every package wherein one or more of such articles is or are inclosed, a label marked with a like notice. (R. S., c. 61, s. 54.)

56. All specifications, drawings, models, disclaimers, judgments and other papers, except *caveats*, and except those filed in connection with applications for patents which are still pending, shall be open to the inspection of the public at the Patent Office, under such regulations as are adopted in that behalf. (R. S., c. 61, s. 47; 3 E. VII, c. 46, s. 12.)

57. The Commissioner may destroy, sell or otherwise dispose of, in such manner as he deems best in the public interest, all models and specimens of composition of matter and of ingredients thereof filed in connection with applications for patents of invention after they have served their immediate purpose.

(2) All money arising from the sale or disposal of such models or specimens shall be paid into the Consolidated Revenue Fund of Canada. (3 E. VII, c. 46, s. 15.)

58. Clerical errors which occur in the framing or copying of any instrument in the Patent Office shall not be construed as invalidating the same, but, when discovered, they may be corrected under the authority of the Commissioner. (R. S., c. 61, s. 48.)

59. If any patent is destroyed or lost, a certified copy thereof may be issued in lieu thereof upon the person who applies therefor paying the fees hereinbefore prescribed for office copies of documents. (R. S., c. 61, s. 49; 53 V, c. 13, s. 4.)

60. Every court, judge and person whosoever shall take notice of the seal of the Patent Office and shall receive the impressions thereof in evidence, in like manner as the impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the Patent Office to be copies of or extracts from documents deposited in such office. (R. S., c. 61, s. 50.)

61. No officer or employee of the Patent Office shall buy, sell or acquire or traffic in any invention or patent, or in any right to a patent; and every such purchase and sale, and every assignment or transfer thereof by or to any officer or employee, as aforesaid, shall be null and void, but this provision shall not apply to any original inventor, or to any acquisition by bequest. (R. S., c. 61, s. 51.)

62. The Commissioner may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations,

and prescribe such forms as appear to him necessary and expedient for the purposes of this Act, and notice thereof shall be given in the *Canada Gazette*; and all documents, executed in conformity with the same and accepted by the Commissioner, shall be held valid, so far as relates to proceedings in the Patent Office. (R. S., c. 61, s. 52.)

63. The Commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this Act, and shall, from time to time, and at least once in each year, publish a list of all patents granted, and may with the approval of the Governor in Council, cause such specifications and drawings as are deemed of interest, or essential parts thereof, to be printed, from time to time, for distribution or sale. (R. S., c. 61, s. 53.)

OFFENSES AND PENALTIES.

64. Any patentee under this Act who sells or offers for sale any article patented under this Act not stamped or engraved with the year of the patent applying to such article, or when from the nature of the article this can not be done, not having affixed to it or every package wherein one or more of such articles is or are inclosed a label marked with the year of the date of the patent applying to such article in manner and form provided by this Act, shall be liable to a penalty not exceeding one hundred dollars, and, in default of the payment of such penalty, to imprisonment for a term not exceeding two months. (R. S., c. 61, s. 54.)

65. Every person who—

(a) Writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing, without the consent of such patentee; or,

(b) Without the consent of the patentee writes, paints, prints, moulds, casts, carves, engraves, stamps, or otherwise marks upon anything not purchased from the patentee, the words, *Patent*, *Letters Patent*, *King's* or *Queen's Patent*, *Patented*, or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee or his legal representatives; or,

(c) Offers for sale as patented any article not patented in Canada for the purpose of deceiving the public; is guilty of an indictable offense, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both. (R. S., c. 61, s. 55.)

66. Every person who wilfully makes or causes to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who produces or tenders any such false or altered document in evidence, knowing the same to be such, is guilty of an indictable offense and shall be liable to be punished by fine and imprisonment accordingly. (R. S., c. 61, s. 56.)

CANADA—WAR LEGISLATION.

PATENTS—REGULATIONS—"WAR MEASURES ACT"—ORDER IN COUNCIL OF OCTOBER 2, 1914.

[2436]

PRIVY COUNCIL, CANADA,
AT THE GOVERNMENT HOUSE AT OTTAWA,
Friday, the 2d day of October, 1914.

Present: His Royal Highness the Governor General in Council.

The Governor General in Council, under and in virtue of the authority conferred by "The War Measures Act, 1914," is pleased to order as follows:

The following Orders and Regulations respecting Patents of Invention are hereby made and established:

1. "Commissioner" means the Commissioner of Patents and includes the Deputy Commissioner of Patents.

2. The Commissioner may, on the application of any person, and subject to such terms and conditions, if any, as he may think fit, order the avoidance or suspension, in whole or in part, of any patent or license, the person entitled to the benefit of which is the subject of any State at war with His Majesty, and the Commissioner, before granting any such application, may require to be satisfied on the following heads:

(a) That the person entitled to the benefit of such patent or license is the subject of a State at war with His Majesty.

(b) That the person applying intends to manufacture or cause to be manufactured, the patented article, or to carry on, or cause to be carried on the patented process within the Dominion of Canada.

(c) That it is the general interests of the country, or of a section of the community, or of a trade, that such article should be manufactured or such process carried on as aforesaid.

The fee payable on such application shall be ten dollars.

The Commissioner may at any time, in his absolute discretion, revoke any avoidance or suspension of any patent or license ordered by him.

Provided always that the Commissioner may at any time, if in his absolute discretion he deems it expedient in the public interest, order

the avoidance or suspension in whole or in part of any such patent or license upon such terms and conditions, if any, as he may think fit.

3. In any case in which the Commissioner makes an order by virtue of the powers vested in him under these Rules and Regulations or any of them, avoiding or suspending in whole or in part a patent, he may, in his discretion, grant in favour of persons other than the subject of any State at war with His Majesty, licenses to make, use, exercise or vend the patented invention so avoided or suspended, upon such terms and conditions and either for the whole term of the patent or for such less period as the Commissioner may think fit.

4. The Commissioner may, at any time during the continuance of these Orders and Regulations, avoid or suspend any proceedings on any application made under The Patent Act by a subject of any State at war with His Majesty.

5. The Commissioner may also, at any time, during the continuance of these Orders and Regulations, extend the time prescribed by The Patent Act or any rules made thereunder, for doing any act or filing any document, upon such terms and subject to such conditions as he may think fit in the following cases, namely:

(a) Where it is shown to his satisfaction that the applicant, patentee, or proprietor, as the case may be, was prevented from doing the said act, or filing the said document, by reason of active service or enforced absence from this country, or any other circumstances arising from the present state of war, which in the opinion of the Commissioner, would justify such extension.

(b) Where the doing of any act would, by reason of the circumstances arising from the present state of war, be prejudicial or injurious to the rights or interests of any applicant, patentee, or proprietor as aforesaid.

Such extension of any prescribed time, if granted after its expiration, shall have the same effect as if granted prior thereto, provided such expiration occurred on or after the 4th day of August, 1914.

6. The Commissioner may refuse to register the assignment of any patent made by a subject of any State at war with His Majesty and filed in the Patent Office on or after the 4th day of August, 1914, unless satisfied that such assignment was made in good faith and not for the purpose of evading any of the provisions of the foregoing Orders and Regulations.

7. The term "person" used in these Orders and Regulations shall, in addition to the meaning given thereto by paragraph 20 of section 34 of "The Interpretation Act," include any Government department.

8. These Orders and Regulations shall come into operation as and from the 4th day of August, 1914.

9. The Orders and Regulations respecting Patents of Invention made under "The War Measures Act, 1914," and dated the 11th

September, 1914 (see 12 P. & T. M. Rev., 364 Ed.) are hereby rescinded and repealed.

(Signed) RODOLPHE BOUDREAU,
Clerk of the Privy Council.

PATENTS OF INVENTION—AMENDMENT TO ORDER IN COUNCIL OF
OCTOBER 2ND, 1914.

AT THE GOVERNMENT HOUSE AT OTTAWA.
Friday, the 8th day of March, 1918.

Present: His Excellency, the Governor General in Council.

His Excellency, the Governor General in Council, on the recommendation of the Acting Minister of Agriculture, and under and by virtue of the provisions of the War Measures Act, 1914, is pleased to order that the regulations respecting patents of invention, established by Order in Council of 2nd October, 1914 (P. C. No. 2,436), shall be and the same are hereby amended by adding thereto the following regulation No. 12:

REGULATION.

“12. Any person to whom a license is granted to make, use, exercise or vend a patented invention under the provisions of regulation three, shall have the same power and right to take any action or other legal proceedings to prevent or restrain any infringement of the said patent which affects the rights of such person under such license, or to recover compensation or damages for any such infringement, that the owner of a patent would have for an infringement of his patent.”

(Signed) RODOLPHE BOUDREAU,
Clerk of the Privy Council.

INDUSTRIAL PROPERTY—ENEMY COUNTRIES—WAR MEASURES—
ORDER OF FEBRUARY 8, 1915.

We are indebted to Mr. Owen N. Evans, of Montreal, for the text of the following order:

[P. C. 291.]

PRIVY COUNCIL, CANADA.
AT THE GOVERNMENT HOUSE AT OTTAWA,
Monday, the 8th day of February, 1915.

Present: His Royal Highness the Governor General in Council.

His Royal Highness the Governor General in Council in pursuance of the provisions of an Order in Council of date the 6th day of Jan-

uary, 1915, respecting the granting of licenses in connection with the Royal Proclamations relating to Trading with the Enemy, published in the Canada Gazette on the 12th day of September, 1914, and the 15th day of October, 1914, doth hereby give and grant license to all persons resident, carrying on business or being in the Dominion of Canada:

To pay any fees necessary for obtaining the grant or for obtaining the renewal of patents or for obtaining the registration of Designs or Trade-marks or the renewal of such registration in an "enemy country":

And also to pay on behalf of an "enemy" any fees payable in the Dominion of Canada on application for or renewal of the grant of a patent or on application for the registration of Designs or Trade-marks or the renewal of such registration.

The expression "enemy country" herein means the territories of the German Empire and of the Dual Monarchy of Austria-Hungary, together with all the Colonies and Dependencies thereof, as well as the Dominions of His Imperial Majesty the Sultan of Turkey other than any territory in the occupation of His Britannic Majesty or His Allies.

The expression "enemy" herein means any person or body of persons of whatever nationality resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of incorporated bodies, enemy character attaches only to those incorporated in an enemy country.

(Signed)

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

PATENTS—REGULATIONS—"WAR MEASURES ACT"—ORDER IN COUNCIL (AMENDATORY) OF FEBRUARY 14, 1916.

AT THE GOVERNMENT HOUSE AT OTTAWA,
Monday, the 14th day of February, 1916.

Present: His Royal Highness the Governor General in Council.

His Royal Highness the Governor General in Council is pleased to order that the Orders and Regulations respecting Patents of Invention of date the 2nd October, 1914,¹ made under and in virtue of the authority conferred by The War Measures Act, 1914, shall be and the same are hereby amended as follows:

1. That section 5 of said Orders and Regulations be amended by adding thereto "and shall be valid notwithstanding any previous extension or extensions granted either under authority of The Patent Act or these Orders and Regulations.

¹ See 13 P. & T. M. Rev., 11.

2. That the following section be added:

"10. In any case in which through circumstances arising from the present state of war the Commissioner may deem it expedient, he may order that during the continuance of the war and for six months thereafter, neither the failure to construct or manufacture in Canada any patented invention nor the importation of such invention into Canada shall in any way affect the validity of the patent granted in respect of such invention, notwithstanding anything in The Patent Act or in such patent."

(Signed)

RODOLPHE BOUDREAU,
Clerk of the Privy Council.

FRANCE.

[Law of the 5th of July, 1844.]

CHAPTER I.

GENERAL PROVISIONS.

ARTICLE 1. Every new discovery or invention, in all departments of industry, confers upon its author, under the conditions and for the term hereinafter mentioned, the exclusive right of working for his own profit the said discovery or invention.

This right is established by deeds delivered by the Government, under the name of *Patents of Invention*.

ART. 2. The following shall be considered as new inventions or discoveries:

The invention of new industrial products.

The invention of new methods, or the new application of known methods, for obtaining an industrial result or product.

ART. 3. The following are not patentable:

1. Pharmaceutical compositions and remedies of all kinds, such objects remaining subject to the special laws and regulations for these matters, and especially to the decree of the 18th of August, 1810, relating to secret remedies.

2. Schemes and combinations relating to credit or finance.

ART. 4. The duration of patents shall be five, ten, or fifteen years.

Every patent shall be subject to the payment of a tax fixed as follows:

Five hundred francs for a patent of five years.

One thousand francs for a patent of ten years.

Fifteen hundred francs for a patent of fifteen years.

This tax shall be paid by annuities of one hundred francs, under penalty of forfeiture if the patentee allow any year to elapse without paying it.

CHAPTER II.

FORMALITIES RESPECTING THE DELIVERY OF PATENTS.

Section I.—Applications for Patents.

ART. 5. Any person who may wish to obtain a patent of invention shall deposit under seal, at the office of the Secretary of the Pre-

fecture in the department which he is domiciled, or in any other department, on electing domicile there:

1. His petition to the Minister of Agriculture and Commerce;
2. A specification of the discovery, invention, or application forming the subject of the patent applied for;
3. The drawings or specimens which may be necessary for the comprehension of the specification; and,
4. A memorandum of the documents deposited.

In the Department of the Seine applications for patents shall be lodged at the bureaux of the National Office of Industrial Property.

[NOTE.—The words in italic were added by the Finance Law of the 26th of December, 1908.]

ART. 6. The application shall be limited to a single principal object, with the points of detail that constitute it, and its applications which shall be indicated.

It shall mention the duration which the applicants wish to assign to their patent within the limits fixed by Article 4, and shall contain neither restrictions, conditions, nor reservations.

It shall set forth a title containing a short and precise designation of the object of the invention.

The specification may not be written in a foreign language. It should be without alterations or interlineations. Words erased shall be counted and verified, the pages and references being initialed. It should not contain any denomination of weights or measures other than those inserted in the table annexed to the law of the 4th of July, 1837.

The drawings shall be made in ink and to a metrical scale.

A duplicate of the specification and drawings shall be annexed to the petition.

All documents shall be signed by the applicant or by an attorney, whose power shall remain annexed to the petition.

ART. 7. (*of the Law of the 9th of July, 1901*). The drawings accompanying applications for patents of invention and certificates of addition, in conformity with the provisions of Article 6 of the Law of the 5th of July, 1844, shall be prepared in the form and to the scale to be determined by a decree of the Minister of Commerce, Industry, Posts and Telegraphs.

ART. 7. No deposit shall be received except on the production of a receipt proving the payment of a sum of one hundred francs on account of the patent tax.

A report drawn up without charge by the General Secretary of the Prefecture *in the Departments and by the Director of the National Office of Industrial Property in Paris* shall prove every deposit, indicating the day and hour when the documents were delivered.

[NOTE.—The words in italic were substituted by the Finance Law of the 26th of December, 1908.]

A copy of the said report shall be remitted to the depositor on paying the cost of the stamp.

ART. 8. The term of the patent shall run from the day of the deposit prescribed by Article 5.

SECTION II.—*Delivery of Patents.*

ART. 9. Immediately after registration of the petitions, and within five days from the date of the deposit, the Prefects shall transmit the documents, under the seal of the inventor, to the Minister of Agriculture and Commerce, adding thereto a certified copy of the report on the deposit, the receipt proving the payment of the tax, and, if there be one, the power mentioned in Article 6.

ART. 4 (*of the Law of the 9th of July, 1901*). *The work connected with patents of invention * * * carried on at the Ministry of Commerce, Industry, Posts and Telegraphs is transferred to the Conservatoire National des Arts et Métiers.*

ART. 10. On the arrival of the documents at the Ministry of Agriculture and Commerce (see Art. 9) they shall be opened, the petitions registered, and the patents issued in the order of the receipt of the said petitions.

ART. 11. Patents applied for in due form shall be granted without previous examination at the risk and peril of the applicants, and without guarantee either of the reality, novelty, or merit of the invention, or the accuracy or correctness of the specification.

A decree of the Minister certifying the regularity of the application shall be granted to the applicant, and shall constitute the patent of invention.

To this decree shall be annexed a printed copy of the specification and drawings mentioned in Article 24 after its conformity with the original has been verified and, if necessary, established.

The first copy of patents shall be delivered gratis.

All subsequent copies required by the patentee or by persons entitled through him shall be subject to a tax of twenty-five francs.

The cost of the drawings, if any, shall be paid by the person requiring them.

The patent shall not be issued until one year after the date of lodging of the application if the said application contain an express request to that effect.

The benefit of the foregoing provision can not be claimed by persons who have already profited by periods of priority given by treaties of reciprocity, and especially by Article 4 of the International Convention of the 20th of March, 1883, for the Protection of Industrial Property.

[NOTE.—The words in italic were added by the Law of the 7th of April, 1902.]

ART. 12. Every application in which the formalities prescribed by Nos. 2 and 3 of Article 5, and by Article 6, have not been observed shall be rejected.

One-half of the sum paid shall belong to the Treasury; but the whole sum will be carried to the account of the applicant if he renew his application within a term of three months, reckoning from the date of the notice of rejection of his application.

ART. 13. Whenever, in pursuance of Article 3, a patent can not be granted, the tax shall be refunded.

ART. 14. A Royal Ordinance inserted in the *Bulletin des Lois* every three months shall announce the patents granted.

ART. 15. The term of patents can only be extended by a law.

Section III.—Certificates of addition.

ART. 16. The patentee or parties entitled under the patent shall during the whole term of the patent be entitled to make alterations, improvements, or additions to the invention by complying, when lodging a petition, with the formalities prescribed by Articles 5, 6, and 7.

These alterations, improvements, and additions shall be authenticated by certificates, granted in the same form as the principal patent, and having, from the respective dates of the petition and the grant, the same effect as the said principal patent, with which they shall expire.

Every application for a certificate of addition shall be subject to the payment of a tax of twenty francs.

Certificates of addition taken by one of the persons entitled inures to the benefit of all the others.

ART. 17. Every patentee who, for an alteration, improvement, or addition, wishes to take a principal patent of five, ten, or fifteen years, instead of a certificate of addition expiring with the original patent, must comply with the formalities prescribed by Articles 5, 6, and 7, and pay the tax mentioned in Article 4.

ART. 18. None but the patentee or persons entitled through him, acting as above mentioned, can during one year legally obtain a patent for an alteration, improvement, or addition to the invention which forms the subject of the original patent.

Nevertheless, any person who shall wish to obtain a patent for an alteration, addition, or improvement in a discovery already patented, may during the said year make an application, which shall be transmitted to and remain deposited under seal at the Ministry of Agriculture and Commerce. (See Art. 9.)

At the expiration of that year the seal shall be broken and the patent granted.

Nevertheless, the original patentee shall have the preference for all alterations, improvements, and additions for which he shall have demanded during that year a certificate of addition or a patent.

ART. 19. Whoever shall have taken a patent for a discovery, invention, or application connected with the subject of another patent shall have no right to work the invention already patented, and, reciprocally, the owner of the original patent can not work the invention which forms the subject of the new patent.

SECTION IV.—*Assignment and Transfer of Patents.*

ART. 20. Any patentee may transfer the whole or part of the ownership of his patent.

The transfer of the whole or part of a patent, either gratuitously or for a consideration, can only be effected by notarial act and after the payment of the whole of the tax prescribed by Article 4.

No transfer shall be valid as regards third parties until it has been registered at the office of the Secretary of the Prefecture of the department in which the deed has been executed.

The registration of deeds executed in the Department of the Seine shall be effected in the Bureaux of the National Office of Industrial Property.

[NOTE.—The words in italic were inserted by the Finance Law of 26th of December, 1908.]

The registration of assignments and of all other acts entailing a transfer shall be effected on the production and deposit of an authentic extract from the deed of assignment or transfer.

A copy of each entry of registration, together with the extract from the deed above mentioned, shall be forwarded by the Prefects to the Minister of Agriculture and Commerce (see Art. 9) within five days of the date of entry.

ART. 21. There shall be kept at the Ministry of Agriculture and Commerce (see Art. 9) a register in which shall be inscribed the changes in the ownership of each patent, and every three months a Royal Ordinance shall publish, in the form prescribed by Article 14, the changes registered during the preceding quarter.

ART. 22. Licensees under a patent, and those who may have acquired from a patentee or from persons entitled through him the right to work the discovery or invention, shall as of right profit by the certificates of addition which may afterwards be granted to the patentee or to persons entitled through him. Reciprocally, the patentee or persons entitled through him shall profit by certificates of addition which may afterwards be granted to the licensees.

All those who may have a right to profit by certificates of addition may obtain a copy at the Ministry of Agriculture and Commerce by paying a fee of twenty francs.

SECTION V.—*Inspection and Publication of Specifications and Drawings of Patents.*

ART. 23. The specifications, drawings, specimens, and models of patents granted shall, until the expiration of the patents, remain deposited at the Ministry of Agriculture and Commerce (see Art. 9), where they may be inspected free of charge by every applicant.

Any person may obtain, at his own expense, a copy of the said specifications and drawings, according to the forms to be established by the regulations prescribed in accordance with Article 50.

*Art. 6 (of the Law of the 9th of July, 1901). The archives, collections, effects, and stock connected with the work of patents * * * shall cease to be included in the inventory of the Minister of Commerce, Industry, Posts and Telegraphs, and shall be taken over by the responsible officer of the Conservatoire National des Arts et Métiers.*

ART. 24 (as amplified by the Law of the 7th of April, 1902). The specifications and drawings of all patents of invention and certificates of addition shall be published *in extenso* in separate pamphlets in the order of their registration.

In cases where a request has been made to delay the issue of the patent for a year, as provided in Article 11, this publication shall only take place after the expiry of this delay.

There shall also be published a catalogue of patents of invention issued.

A decree of the Minister of Commerce and Industry shall determine (1) the form, size, and wording of the specifications and drawings, and also the price of the printed specifications and the rules for the publication of the catalogue; (2) the conditions to be complied with by persons who, after lodging an application for a patent in France and being desirous of lodging similar applications abroad before the issue of the French patent, wish to obtain an official copy of the documents relating to their application in France. Each issue of this kind shall be subject to a fee of twenty-five francs. The cost of the drawings, if any, must be borne by the applicant.

ART. 25. The collection of specifications and drawings and the catalogue published according to the preceding article shall be deposited at the Ministry of Agriculture and Commerce, and at the office of the Secretary of the Prefecture of each Department, where they may be inspected free of charge.

ART. 26. On the expiration of patents the original specifications and drawings shall be deposited in the Royal Conservatory of Arts and Crafts.

CHAPTER III.

RIGHTS OF FOREIGNERS.

ART. 27. Foreigners may obtain patents of invention in France.

ART. 28. The formalities and conditions prescribed by the present law shall be applicable to patents applied for or granted in compliance with the preceding article.

ART. 29. The author of an invention or discovery already patented abroad may obtain a patent in France; but the duration of this patent must not exceed that of the patents previously obtained abroad.

CHAPTER IV.

ANNULMENTS AND FORFEITURES, AND ACTIONS RELATING THERETO.

SECTION I.—*Annulments and Forfeitures.*

ART. 30. Patents granted under the following circumstances shall be null and of no effect:

1. If the discovery, invention, or application be not new.
2. If the discovery, invention, or application be not patentable according to Article 3.
3. If the patents refer to theoretical or purely scientific principles, methods, systems, discoveries, and conceptions, the industrial applications of which are not indicated.
4. If the discovery, invention, or application be found to be contrary to public order or safety, to morals, or to the laws of the country, without prejudice in such a case, and in that of the preceding paragraph, to any penalties which may be incurred by the manufacture or sale of the prohibited articles.
5. If the title under which the patent has been applied for fraudulently indicate an object other than the real object of the invention.
6. If the specification annexed to the patent be not sufficient for working the invention, or if it do not point out in a complete and fair manner the real means employed by the inventor.
7. If the patent have been obtained contrary to the provisions of Article 18.

Certificates comprising alterations, improvements, or additions which are not connected with the original patent shall likewise be null and of no effect.

ART. 31. No discovery, invention, or application shall be considered as new which, in France or abroad, and before the date of the deposit of the application, has received sufficient publicity to enable it to be worked.

ART. 32. The following shall be deprived of all their rights:

1. The patentee who has not paid his annuity before the beginning of each year of the term of his patent.

The interested party shall always have an extension of three months, at most, in which to pay his annuity; but there must be paid, in addition, a supplementary tax of five francs if he make the payment in the first month, of ten francs if he make the payment in the second month, and of fifteen francs if he make the payment in the third month.

This supplementary tax must be paid at the same time as the annuity in arrear.

[NOTE.—The words in italic were inserted by the Law of the 7th of April, 1902.]

2. The patentee who has not worked his discovery or invention in France within the term of two years from the date of the signature of his patent, or who has ceased to work it during two consecutive years, unless, in the one case or the other, he justify himself as to the causes of his inaction.

3. The patentee who has introduced into France articles manufactured abroad and similar to those which are protected by his patent. *Nevertheless the Minister of Agriculture, Commerce, and Public Works may authorize the introduction:*

1. *Of models of machines;*
2. *Of articles made abroad intended for public exhibitions or for trials made with the consent of the Government.*

[NOTE.—The words in italic were substituted by the Law of the 31st of May, 1856.]

ART. 33. Whoever, in sign-boards, advertisements, prospectuses, placards, marks, or stamps, calls himself patentee, without possessing a patent granted conformably to law, or after the expiration of a prior patent; or who, being a patentee, mentions his title of patentee, or his patent, without adding the words, "*sans garantie du gouvernement*," shall be subject to a fine of from fifty to one thousand francs.

In the event of a repetition of the offense the fine may be doubled.

SECTION II.—*Actions for annulment and forfeiture.*

ART. 34. An action for annulment or an action for forfeiture may be brought by all persons interested therein.

These actions, as well as all disputes relating to the ownership of patents, shall be brought before the civil tribunals of first instance.

ART. 35. If the claim be brought at the same time against the owner of the patent and one or several partial licenses, it shall be brought before the tribunal of the domicile of the owner of the patent.

ART. 36. The case shall be examined and decided in the form prescribed for summary matters by Article 405 and following of the Code of Civil Procedure. It shall be communicated to the *Procureur du Roi*.

ART. 37. In every suit tending to the annulment or forfeiture of a patent, the Public Ministry may intervene and take steps to have the absolute nullity or forfeiture of the patent pronounced.

The Ministry may also proceed directly, by original action, to have the annulment pronounced in the cases provided for in Nos. 2, 4, and 5 of Article 30.

ART. 38. In cases coming under Article 37, all persons entitled under the patent whose titles have been registered at the Ministry of Agriculture and Commerce (see Art. 9), conformably to Article 21, must be parties to the action.

ART. 39. When the absolute annulment or forfeiture of a patent has been pronounced by a finally effective judgment or decree, notice shall be given to the Ministry of Agriculture and Commerce, and the annulment or forfeiture shall be published in the form prescribed by Article 14 for announcing patents.

CHAPTER V.

INFRINGEMENTS, PROSECUTIONS, AND PENALTIES.

ART. 40. Every interference with the rights of a patentee, either by the manufacture of the products or by using the means forming the subject of his patent, constitutes the offense of infringement.

That offense shall be punished by a fine of from one hundred to two thousand francs.

ART. 41. Those who have knowingly received, sold, or exposed for sale, or introduced into French territory one or more infringing articles, shall be punished with the same penalties as infringers.

ART. 42. The penalties established by the present law shall not be cumulative.

The highest penalty shall be inflicted as covering all offenses prior to the commencement of the prosecution.

ART. 43. In case of a repetition of the offense, there shall be inflicted, in addition to the fine prescribed by Articles 40 and 41, imprisonment of from one to six months.

It shall be considered a repetition of the offense if the accused have during the five previous years undergone a first punishment for one of the offenses coming under the present law.

Imprisonment of from one to six months may also be inflicted if the infringer be a workman or employee who has worked in the

factory or establishment of the patentee or if the infringer, having associated himself with a workman or an employee of the patentee, have become acquainted through the latter with the processes described in the patent.

In the latter case the workman or employee may be prosecuted as an accomplice.

ART. 44. Article 463 of the Penal Code may be applied to offenses provided for by the preceding provisions.

ART. 45. Penal proceedings for imposing the above penalties can not be brought by the Public Ministry except on the complaint of the injured party.

ART. 46. The Criminal Court before which an action for the offense of infringement is brought shall decide on the objections raised by the accused, whether as to the nullity or forfeiture of the patent, or as to questions relating to the ownership of the said patent.

ART. 47. The proprietors of the patent may, by virtue of an order of the president of the tribunal of first instance, proceed, by the officers of the Court, to have inventoried, with or without seizure, the articles said to be infringements.

This order shall be issued on a simple request and on the production of the patent; it shall contain, if necessary, the nomination of an expert to assist the officer in his inventory.

When a seizure is to be made, the said order may require security from the applicant, which shall be given before the matter is proceeded with.

Security shall always be required from a foreign patentee who demands a seizure.

A copy of the order and of the deed certifying that the security, if required, has been deposited, shall be left with the holder of the articles inventoried or seized, under pain of annulment of the proceedings and of damages against the officer.

ART. 48. In default of the applicant suing, either by civil or criminal proceedings, within eight days, besides one day for every three myriamètres' distance between the place where the articles seized or inventoried were found and the residence of the infringer, concealer, importer, or seller, the seizure or inventory shall be legally void, without prejudice to the damages which may, if they have risen, be claimed in the form prescribed by Article 36.

ART. 49. The confiscation of the articles held to be infringements, and, if the case arise, of the instruments or tools specially designed for their manufacture, shall be pronounced against the maker, concealer, importer, or seller even in case of an acquittal.

The confiscated articles shall be delivered to the owner of the patent, without prejudice to his claiming further damages, and to the placarding of the judgment according to circumstances.

CHAPTER VI.

SPECIAL AND TRANSITORY PROVISIONS.

ART. 50. Royal Ordinances for the regulation of the public administration shall prescribe the necessary provisions for the execution of the present law, which shall not come into force until three months after its promulgation.

ART. 51. Ordinances delivered in the same form may regulate the application of the present law to the Colonies, with the modifications that may be judged necessary.

ART. 52. The following are to be repealed from the day when the present law comes into execution: The laws of the 7th January and 25th May, 1791; of the 20th September, 1792; the decree of the 17th Vendémiaire, of the year VII; the decree of the 5th Vendémiaire, of the year IX; the decrees of the 25th November, 1806, and 25th January, 1807; and all provisions prior to the present law, relating to patents of invention, importation, and improvement.

* * * * *

Law of the 15th of April, 1902.

[Law approving the additional Act, signed at Brussels, on the 14th of December, 1900, modifying the Convention of the 20th of March, 1883, relative to the international protection of industrial property, and also the protocol annexed to the Convention.]

The President of the Republic is authorized to ratify and, if necessary, to issue a decree giving force to the additional Act signed at Brussels on the 14th of December, 1900, modifying the Convention of the 20th of March, 1883, relative to the international protection of industrial property and also the protocol annexed to the Convention.

An authentic copy of the additional Act of the 14th of December, 1900, shall be annexed to this law.

[Law of the 11th of April, 1908, relating to the temporary protection of industrial property in official or officially recognized international Exhibitions abroad and in Exhibitions organized in France or the Colonies with the authorization or under the patronage of the Government.]

ARTICLE I. Temporary protection is granted to patentable inventions to industrial designs and models, and to manufacturing or commercial marks for articles which may be duly admitted to official or officially recognized International Exhibitions abroad.

This protection, the term of which is fixed at twelve months dating from the official opening of the Exhibition, shall have the effect of preserving to exhibitors, or to those entitled through them, under the conditions set out below, the right of claiming during such term the protection to which their discoveries, designs, models, or marks shall be legally entitled.

The term of this temporary protection shall not be prolonged, either by the periods of priority granted by Article 4 of the International Convention of the 20th of March, 1883, modified by the additional Act of Brussels of the 14th of December, 1900, or by those fixed by Article 11 of the law of the 5th of July, 1844, modified by that of the 7th of April, 1902.

ART. II. Exhibitors who may wish to avail themselves of the temporary protection shall lodge, through the authority appointed to officially represent France at the Exhibition, a certificate proving that the article for which protection is sought is duly exhibited.

An application for such certificate must be made at the office of the Exhibition and at the latest within the first three months of the official opening of the Exhibition. It shall be accompanied by an exact description of the article to be certified, and, if necessary, by drawings thereof.

The applications shall be inscribed in a special register, which shall be sent with the said application and the accompanying documents to the Ministry of Commerce and Industry immediately after the official closing of the Exhibition. The applications shall be shown free of charge upon demand through the National Office of Industrial Property.

ART. III. The necessary rules for the application of this law shall be determined by a decree for each Exhibition fulfilling the conditions of Article I.

ART. IV. Similar protection is granted to patentable inventions, designs, and models, and also to manufacturing or commercial marks for articles which shall be duly admitted to Exhibitions organized in France or the Colonies with the authorization or under the patronage of the Government.

The rules necessary for the application of this article shall be determined by decree.

The law of the 23rd of May, 1868, is repealed.

FRANCE—TRADE-MARK LAW OF JUNE 23, 1857.

Title 1.—Right of property in trade-marks.

ARTICLE 1. The mark of trade or of commerce is discretionary.

However, it may exceptionally be declared obligatory by decrees rendered in the form of regulations of public administration for products determined therein.

The following are to be considered as marks of trade and commerce: Names under a distinctive form, denominations, emblems, embossments, stamps, seals, vignettes, reliefs, letters, figures, enve-

lopes, and all other signs serving to distinguish the products of a factory or the objects of commerce.

ART. 2. Nobody can claim the exclusive property of a trade-mark unless he has deposited two specimens of said mark with the clerk of the tribunal of commerce of his domicile.

ART. 3. The deposit has effect only for 15 years.

The property of the mark may always be preserved for a new term of 15 years, by means of a new deposit.

ART. 4. There is collected a fixed fee of 1 franc for the drawing up of the official report of deposit of each mark, and for the cost of issuing, not including the cost of stamp and of registration.

Title 2.—Provisions relating to foreigners.

ART. 5. Foreigners who possess in France industrial or commercial establishments enjoy, for the products of their establishments, the benefit of the present law on complying with the formalities which it prescribes.

ART. 6. Foreigners and Frenchmen whose establishments are situated outside of France enjoy equally the benefit of the present law for the products of these establishments, if, in the countries where they are situated, diplomatic conventions have established reciprocity for French marks.

In this case the deposit of foreign marks takes place with the clerk of the tribunal of commerce of the Department of the Seine.

Title 3.—Penalties.

ART. 7. The following persons will be punished by a fine of from 50 to 3,000 francs and imprisonment of from three months to three years, or one of these penalties only:

(1) Those who have counterfeited a mark or made use of a counterfeited mark.

(2) Those who have fraudulently affixed on their products or objects of commerce a mark belonging to another.

(3) Those who have knowingly sold or put up for sale one or several products bearing a mark counterfeited or fraudulently affixed.

ART. 8. The following persons will be punished by a fine of from 50 to 2,000 francs and imprisonment of from one month to one year, or one of these penalties only:

(1) Those who, without counterfeiting a mark, have made a fraudulent imitation of it of a nature to deceive the purchaser, or have made use of a mark fraudulently imitated.

(2) Those who have made use of a mark bearing indications calculated to deceive the purchaser as to the nature of the product.

(3) Those who have knowingly sold or put on sale one or several products bearing a mark fraudulently imitated or bearing indications calculated to deceive the purchaser as to the nature of the product.

ART. 9. The following persons will be punished by a fine of from 50 to 1,000 francs and imprisonment of from 15 days to six months, or one of these penalties only:

(1) Those who have not affixed on their products a mark declared obligatory.

(2) Those who have sold or put on sale one or several products not bearing the mark declared obligatory for that species of products.

(3) Those who have contravened the provisions of decrees rendered in execution of Article 1 of the present law.

ART. 10. The penalties established by the present law can not be accumulated.

The severest penalty alone is to be inflicted for all deeds prior to the first act of prosecution.

ART. 11. The penalties provided for in sections 7, 8, and 9 may be doubled in case of renewal of the offense.

There is a renewal of the offense whenever there has been pronounced against the accused within the preceding five years a sentence for an offense provided for by the present law.

ART. 12. Article 463 of the penal code may be applied to offenses provided for by the present law.

ART. 13. The offenders may, moreover, be deprived of the right to participate in the election of tribunals and of chambers of commerce, of consulting chambers of arts and manufactures, and of councils of experts during a time which shall not exceed 10 years.

The tribunal may order the posting of the judgment in places which it may determine and its insertion integrally or by extract in the journals which it may designate, all this at the cost of the offender.

ART. 14. The confiscation of products, the mark of which shall be found contrary to the provisions of Articles 7 and 8, may, even in the case of acquittal, be pronounced by the tribunal, as well as that of instruments and utensils which have especially served to commit the offense.

The tribunal may order that the confiscated products be turned over to the proprietor of the mark counterfeited or fraudulently affixed or imitated, independently of more ample damages, if there be such.

In every case it will order the destruction of the marks found to be contrary to the provisions of Articles 7 and 8.

ART. 15. In the case provided for by the first two paragraphs of Article 9, the tribunal will always prescribe that the marking declared obligatory be affixed upon the products which are subject to them.

The tribunal may pronounce the confiscation of products, if the accused has incurred, within the previous five years, a sentence for one of the offenses provided for in the first two paragraphs of Article 9.

Title 4.—Jurisdiction.

ART. 16.—Civil actions relating to marks are brought before the civil tribunals and judged as summary matters.

In case of action commenced by the correctional way, if the accused raises for his defense questions relative to the ownership of the mark, the police court shall rule on the exception.

ART. 17. The proprietor of a mark may make, proceeding through any marshal, a detailed description, with or without seizure, of the products which he contends to be marked to his prejudice in contravention of the provisions of the present law, by virtue of an ordinance of the president of the civil tribunal of the first instance or of the justice of the peace of the district in default of a tribunal, in the place where are found the products to be described or seized.

The ordinance is granted on a simple request and on the presentation of the official report proving the deposit of the mark. It contains, if there be any, the nomination of an expert in order to aid the marshal in his description.

Where seizure is required the judge may require from the applicant security which he is required to deposit before proceeding to make the seizure.

Copy of the ordinance and of the act proving the deposit of the security, if such be the case, is left with the holders of the objects described or seized; all this under penalty of nullity and of indemnity against the marshal.

ART. 18. In default of action by the applicant, be it by the civil way, or be it by the correctional way, within a delay of 15 days, besides one day for every 5 myriamètres of distance between the place where the objects described or seized are found and the domicile of the party against whom the action is to be directed, the description or seizure is null of full right, without prejudice to the damages which may be claimed by the injured party if there be such.

Title 5.—General and transitory provisions.

ART. 19. All foreign products bearing, be it the mark, be it the name of a manufacturer resident in France, be it the indication of the name or of the place of a French factory, are prohibited entrance and excluded from transit and from storage, and may be seized at whatever place they may be, be it at the suit of the customs house authorities, be it at the request of the public ministry or of the injured party.

In the case where seizure is made at the suit of the customs house authorities, the official report of seizure is immediately addressed to the public ministry.

The delay in which the action provided for by Article 18 must be instituted under penalty of nullity of the seizure, be it by the injured party, or be it by the public ministry, is extended to two months.

The provisions of Article 14 are applicable to products seized by virtue of the present article.

ART. 20. All the provisions of the present law are applicable to wines, brandies, and other drinks, to cattle, grains, flour, and generally to all products of agriculture.

ART. 21. Every deposit of a mark made with the clerk of the tribunal of commerce previous to the present law will have effect for 15 years, to date from the period when said law shall be operative.

ART. 22. The present law shall only be operative six months after its promulgation. Regulations of the public administration shall determine the formalities required for the deposit and the publicity of marks, and all the other measures necessary for the execution of the law.

ART. 23. This is not derogatory to previous enactments which are not contrary to the present law.

AMENDMENT OF MAY 3, 1890.

Law for the modification of Article 2 of the law of June 23, 1857, concerning marks of trade and commerce.

The Senate and the Chamber of Deputies have adopted,

The president of the Republic promulgates the laws of the tenor following:

Sole article.—Article 2 of the law of June 23, 1857, on marks of trade and of commerce is modified as follows:

No one shall be entitled to claim the exclusive property of a mark unless he has deposited it with the clerk of the tribunal of commerce of his domicile—

(1) Three specimens of the print of the mark.

(2) An electrotype of the mark.

In case of the deposit of several marks belonging to the same person, it is only necessary to make out one official report, but there must be filed as many specimens of the prints in triplicate and as many electrotypes as there are distinct marks.

One of the specimens deposited shall be sent to the depositor vested with the indorsement of the clerk, and bearing the indication of the day and hour of deposit.

The dimensions of the electrotypes must not exceed 12 centimeters (0^m. 12) on a side.

The electrotypes will be returned to the party interested, after the official publication of the marks by the department of commerce, of industry, and of the colonies.

The present law, considered and adopted by the Senate and by the Chamber of Deputies, shall be executed as the law of the State.

(Signed) CARNOT,

The Ministry of Commerce, of Industry, and of the Colonies.

(Signed) JULES ROCHE.

DESIGNS AND MODELS—LAW OF JULY 14, 1909.

[Translation.]

ARTICLE 1. Every author of a design or model and his assigns have the exclusive right to exploit, sell or cause to be sold his design or model, under the conditions prescribed by this present law, without prejudice to the rights which they may have under other legal provisions and notably under the law of July 19-24, 1793, modified by the law of March 11, 1902.

ART. 2. The present law is applicable to every new design, to every new plastic form, to every industrial object which is differentiated from similar objects either by a distinct and recognizable configuration conferring upon it a character of novelty, or by one or more exterior effects giving it a particular and new appearance.

But if the same effect can be at once considered a new design or model and a patentable invention, and if the elements constituting the novelty of the design or model are inseparable from those of the invention, the said object may only be protected under the law of July 5, 1844.

ART. 3. Only those designs or models regularly registered shall enjoy the benefits of this law.

The property in a design or model belongs to him who has created it or to his assigns; but the first registrant of the said design or model is presumed, until proof is made to the contrary, to be the author.

The publicity given to a design or model, prior to its registration, by placing it on sale or by any other means, does not entail the forfeiture of the property right, or of the special protection granted by the present law.

ART. 4. Decrees special to certain industries may prescribe the measures necessary to permit manufacturers to prove their priority of employment of a design or model, notably by the keeping of private registers submitted to the administrative stamp.

ART. 5. Registration is effected, under penalty of nullity, at the office of the council of prud'hommes, or in default of the council of prud'hommes, at the office of the clerk of the commercial court of the locality where the registrant is domiciled.

When the domicile of the registrant is situated outside of France the registration is effected, under penalty of nullity, at the office of the council of prud'hommes of the Department of the Seine.

The declaration of each registration is transcribed upon the register with the date, hour of registration, and a serial number; a certificate of registration reciting these particulars is sent to the registrant.

The deposit consists of, under penalty of nullity, two identical copies of a specimen or representation of the object claimed, with an explanatory memorandum, if the registrant believes same necessary, the whole contained in a box hermetically sealed and upon which are placed the seal and signature of the registrant, and also the seal and visé of the secretary or court clerk, in such a manner that it can not be opened without making these certifications disappear. The same deposit may include from 1 to 100 designs or models, which should be numbered consecutively. Designs or models not numbered, or bearing duplicate numbers or numbers above 100 shall not be considered as validly registered in respect of this present law.

ART. 6. The box deposited may remain at the secretariate or at the office of the clerk of the court during a maximum period of five years; as long as it is left there the deposit of the objects which it contains remains secret.

The registrant and his assigns can always, from the beginning and during the course of the said period, require the publicity of the deposit, either in regard to all the objects contained in the box or only in regard to one or more of them.

The registrant, or his assigns, when they wish to oppose the registration by a third party, should require the opening of the sealed box, extracting the article or articles in regard to which they intend to institute judicial proceedings, and demand the publicity of the registration in connection with said objects.

When the publicity of the registration of a design or model is required by the registrant or his assigns, the box deposited is sent to the national office, which proceeds to open the said box, removes the two copies of the design or model, proves the identity of the two copies, has reproduced by a photographic process that one of the two which is intended to be delivered to the courts, if there is reason to do so, while the other copy remains at the office, where it shall be delivered under the conditions laid down by the regulation provided in Article 15 below.

The other objects contained in the box, and for which publicity is not required, shall be sent back under seal, closed, with certification in proof.

A proof of the reproduction of the design or model made public, with a copy of the description and the necessary explanations for

completing the said reproduction, is placed at the disposition of the public at the national office.

Proofs, also bearing a copy of the explanatory notes and of the declaration of the registration, shall be delivered, upon payment of a fee, to the registrant who makes a request therefor, or to his assigns; also to any party engaged in a legal dispute relative to the design or model.

ART. 7. The total duration of the protection granted by the present law to a registered design or model is, under the reserve and the conditions hereafter indicated, 50 years, counting from the date of the registration.

At the expiration of the first five-year period, during which the deposit may remain at the secretariate or at the office of the clerk of the court, the box containing under seal the objects for the registration of which publicity has not, before this term, been required, is restored to the applicant upon his request.

If he wishes to maintain his registration, either in regard to all the objects contained in the box, or only in regard to one or more of them, the registrant must, before the expiration of the said five years, require the maintenance of this registration, either with the publicity provided for in paragraph 4 of Article 6, or under the secret form, for each of the said objects.

The sealed box is sent to the national office, which proceeds to open it, and extracts therefrom the objects for which the maintenance of registration has been applied for; it gives to each of them for which -it has been required the publicity provided for in paragraphs 4 and 6 of Article 6, places under a closed and sealed envelope with a certification in proof the two copies of each of them for which the maintenance of the secret has been required, and leaves the other objects in the box newly closed and sealed, as is prescribed in paragraph 5 of Article 6, with a view to the restitution which may be claimed by virtue of paragraph 2 of the present article.

The registration thus maintained at the national office, whether with publicity or under cover, expires 25 years after the date of its registration at the secretariate or at the office of the clerk of the court, if before the expiration of the said term the registrant has not applied for its prolongation for a new period of 25 years.

At the commencement of this new period the deposit kept, under secret form, at the national office receives, in charge of the latter, the publicity provided for in paragraphs 4 and 6 of Article 6, if it has not already been applied for during the course of the second period.

ART. 8. At the time when the registrations are effected there is paid to the secretariate of the council or to the clerk of the court an indemnity of 3 francs 95 for the registration, plus 5 centimes for the object deposited. There are included in the said indemnity the

allowance provided for by Article 58 of the law of March 29, 1907, and the cost of the stamp.

When, either during or at the end of the first period, the publicity of the registration is required, a fee of 30 francs is to be paid for each of the objects which, upon request by the registrant, are withdrawn from the sealed box, and preserved, publicly, by the national office, in accordance with the provisions of paragraph 4 of Article 6; there is a fee of 5 francs for each of the objects which the office, upon the request of the registrant, retains in deposit under the secret form.

The prolongation of a registration, at the expiration of the first 25 years, is subject to the payment of a new fee, the amount of which is 50 francs, for each of the objects which remain protected if the registration has been rendered public, and 75 francs if up to that time it has remained secret.

ART. 9. When the publicity of a registration or its maintenance, with or without publicity, has not been applied for before the prescribed term of five years and when at the expiration of this term the sealed box has not been claimed, the seals are broken and the objects contained in the box are transmitted to the establishments which are, for this purpose, designated by decree.

There are also sent to the said establishments, after 25 years, the objects for which no prolongation of the registration has been requested; after 50 years, those the registration of which has been prolonged.

The objects which the establishments above indicated judge worthy of preservation shall be exhibited or communicated to the public; on each of them shall be mentioned the name, first name, title and domicile of the registrant, as well as the date of the registration. Inscriptions shall indicate to the public that these particulars are given to interested parties to invite them and to aid them to ascertain if the exclusive right of reproducing such of these objects as constitute designs or sculpture, in the purely technical sense of these words, is still guaranteed by the law of July 19-24, 1793, modified by the law of March 11, 1902.

ART. 10. Every offense knowingly committed against the rights guaranteed by this law is punished by a fine of from 25 to 2,000 francs.

In case of a repetition of the offense, or if the offender is a person having worked for the injured party, there is, in addition, a sentence of imprisonment of from one month to six months.

There is a repetition of the offense when a first sentence has been pronounced against the accused for one of the offenses named in the present law within the five years preceding.

The guilty parties may, in addition, be deprived, during a period which shall not exceed five years, of the right of suffrage and of

eligibility for the courts and chambers of commerce, also for the council of prud'hommes.

ART. 11. Acts prior to the registration do not furnish grounds for any action based upon this law.

Acts subsequent to the registration, but prior to its publicity, do not furnish any ground of action, even civil, except the charge by the party injured establishing the bad faith of the accused.

No action, penal or civil, can be brought by virtue of the same article before the registration has been rendered public.

When the acts are subsequent to the publicity of the registration, their authors can plead their good faith as a defense, but only upon condition of producing the proof of same.

Confiscation for the benefit of the injured party of the articles offending against the rights guaranteed by the present law is pronounced even in case of acquittal.

The court, in case of a sentence of guilty, may, in addition, order the confiscation of the instruments having specially served for the manufacture of the articles offending.

ART. 12. Upon a simple request, and upon producing the certificate of registration and a receipt for the fees prescribed in Article 8, and by virtue of an order issued by the president of the civil court of the locality where the operations have taken place, the injured party may cause any court officer to make a detailed description, with or without seizure, of the infringing articles or instruments.

The president has the authority to authorize the petitioner to call for the assistance of a police officer or of the justice of the peace of the canton, and to require security of the petitioner, which he is obliged to pay before proceeding to the operation; this security is always required of a foreigner who makes a demand for seizure.

A copy of the order and the document proving the deposit of security is left with the persons in whose possession are the articles described, under penalty of nullity and of damages against the court officer.

Upon failure of the petitioner to bring suit, either civil or criminal, within the term of 15 days, besides one day per 5 myriamètres of the distance between the place where are found the articles listed or seized and the domicile of the prosecuting party, the description or seizure is null under the common law, without prejudice to the right of damages.

ART. 13. The benefit of the present law applies to those designs and models the authors of which or their assigns are French or domiciled in France, or have, in France, industrial or commercial establishments, or are by their nationalities, their domiciles, or their industrial or commercial establishments, inhabitants of a State which

guarantees reciprocity, by its interior legislation or its diplomatic conventions, to French designs and models.

ART. 14. The present law shall enter into force six months after its promulgation.

From that date on, prior registrations which are still valid after the legislation which precedes, shall be subject to the provisions of the present law; registrations in perpetuity shall cease to be valid 50 years after its entry into force; registrations effected for five years or less may be renewed under the provisions prescribed by the present law, before the expiration of the term for which they have been effected.

Registrants and their assigns shall have the power to demand either the restitution or the opening and publicity of their prior registrations, under the conditions prescribed in paragraphs 2 and 3 of Article 7, with authority to have drawn up a duplicate of the registration.

ART. 15. Regulations of public administration shall prescribe the material, the dimensions, the weight, the method of closing the box to be deposited, the form of the declaration, the conditions for the opening and publicity of the deposit, the conditions under which shall be effected the restitution to the registrant after the first period, delivery of the copy intended for the courts, and its return to the national office, the fee in connection with the provisional measures prescribed by paragraph 3 of Article 11, and all other provisions necessary to the execution of the present law.

The fees prescribed by the present law, with the exception of the indemnity mentioned in paragraph 1 of Article 8, shall be collected by the Conservatoire National des Arts et Metiers for the benefit of the national office of industrial property.

ART. 16. Regulations of public administration shall determine the conditions under which the present law shall be applicable to Algeria and to the colonies.

ART. 17. Articles 15 to 19 of the law of March 18, 1806, and all other provisions relative to designs and trade models and conflicting with the present law are repealed.

The present law, discussed and adopted by the Senate and by the Chamber of Deputies, shall be executed as the law of the State.

Done at Paris, July 14, 1909.

(Signed)

A. FALLIERES.

FRANCE—WAR LEGISLATION.

PATENTS—APPLICATIONS—TAXES—WORKING—MORATORIUM—

DECREE EFFECTIVE AUGUST 1, 1914.

[Decree of Aug. 14, suspending from Aug. 1, 1914, to a date that shall be fixed by decree on the cessation of hostilities, in particular the legal delays for paying annuities, for the working of patents and for the payment of the fee which is required to be paid on filing an application for letters patent.]

The President of the Republic of France, on the report of the President of the Board of Trade, the Postmaster General, the Keeper of the Seal, Minister of Justice and of the Chancellor of the Exchequer, considering the law of August 5, 1914, and, particularly Article 2, which reads thus:

“During the continuance of the mobilization and until the cessation of hostilities, the Government is empowered to take, in view of the general interests, by decree in ministerial council, every necessary measure to facilitate the execution or suspend the effects of commercial or civil obligations, to suspend all prescriptions or limitations in civil, commercial, or administrative matters, all delays granted for challenging, notifying or executing the judicial decisions of the law or administrative courts;

“The suspension of the prescriptions or limitations may apply to * * * and generally speaking to any act, which, according to law, must be accomplished within a given time.”

The Cabinet Council, having been heard, decrees:

ARTICLE 1. From August 1, 1914, inclusive, and until a date that shall be fixed by a decree on the cessation of hostilities, are suspended the legal delays in which the owners of letters patent must, on pain of forfeiting all their titles, pay the annual taxes on their patents.

The same suspension is applicable to the payment that has to be made at the time of any application for a patent or patent of addition.

ART. 2. Are also suspended during the same period the delays provided for by the acts referred to above, either for the working in France of the patented invention, or for the cessation of said working, the owner of the letters patent having, in neither case, to bring forward any justification to enjoy said suspension.

The foregoing stipulations are not applicable to the patentees who might have incurred, before August 1, 1914, the forfeiture provided for by the laws in force.

ART. 3. From August 1, inclusive, and until a date that shall be fixed conformably to Article 1 of the present decree, are suspended:

(1) The delays granted to the owners of guarantee certificates issued on the occasion of exhibitions organized in France with the authorization of the administration or with its patronage, to claim

the protection which their discoveries, drawings, designs, or trade-marks are legally entitled to.

(2) The delay during which the applicant for a drawing or design is at liberty to demand the continuance of his application, either with publicity or secrecy.

ART. 4. The present decree is applicable to Algeria.

ART. 5. The present decree shall receive immediate execution in virtue of Article 2 of the decree of November 5, 1870.

ART. 6. The President of the Board of Trade, the Postmaster General, the Keeper of the Seal, Minister of Justice, and the Chancellor of the Exchequer are intrusted, respectively, with the execution of the present decree which shall be published in the *Journal Officiel* and inserted in the *Bulletin des Lois* (Official Law Reports).

Paris, August 14, 1914.

(Signed) R. POINCARÉ.

TRADE WITH ALIEN ENEMY—PROHIBITED—DECREE OF SEPT. 27, 1914.

[Translation.]

[Decree of Sept. 27, 1914, relative to the prohibition of commercial relations with Germany and Austria-Hungary.]

The President of the French Republic, on the report of the President of the Council, of the Ministers of Commerce, Industry, Posts and Telegraphs, Justice, the Interior, Foreign Affairs, Finances, and Colonies; in view of the law of August 5, 1914; the Council of Ministers agreed, decrees:

ARTICLE 1. On account of the state of war and in the interest of the national defense, all commerce with the subjects of the Empires of Germany and of Austria-Hungary or with persons residing therein is, and remains, prohibited.

Moreover, subjects of the said Empires are prohibited from engaging directly, or through an intermediate person, in any commerce on French territory or on territory of a French protectorate.

ART. 2. Any act or contract made either in French territory or in territory of a French protectorate by any person, or anywhere by French or French protégés, with subjects of the Empires of Germany and of Austria-Hungary or with persons residing therein, is null and void as contrary to public policy.

The nullity decreed in the preceding paragraph has as a time of beginning the date of August 4, for Germany, and that of August 13, 1914, for Austria-Hungary; it shall have effect during the whole duration of hostilities and up to a date that will later be fixed by decree.

ART. 3. During the same time, the execution to the profit of subjects of the German or Austro-Hungarian Empires, or of persons residing therein, of pecuniary or other obligations resulting from any act or contract done either in French territory or in the territory of a French protectorate by any person, or anywhere by French citizens or French protégés, prior to the dates fixed in paragraph 2 of Article 2, is prohibited and declared null as contrary to public policy.

When the act or contract referred to in the preceding paragraph shall not have received at the date of the present decree any commencement of execution in the form of delivery of merchandise or of pecuniary payment, its annulment may be pronounced by ordinance issued on request by the President of the Civil Tribunal. French citizens, French protégés, and the natives of allied and neutral countries shall be the only ones permitted to present this request.

ART. 4. The dispositions of Articles 2 and 3 of the present decree are applicable even in the case where the act or contract shall have been made by an intermediate person.

ART. 5. There shall be special decrees issued regarding patents of invention and trade-marks in which the subjects of the German and Austro-Hungarian Empires are interested and regarding the life and employment-accident insurance companies having their place of business in those two countries.

ART. 6. The disposition of the present decree shall be submitted to the ratification of the Chambers.

ART. 7. The President of the Council, the Ministers of Commerce, Industry, Posts and Telegraphs, Justice, Interior, Foreign Affairs, Finances, and Colonies, are charged, each in that that concerns him, with the execution of the present decree which shall be published in the *Journal Officiel* and inserted in the *Bulletin des Lois*.

Done at Bordeaux, September 27, 1914.

(Signed) R. POINCARÉ.

INDUSTRIAL PROPERTY—FEES—DECREE OF SEPT. 27, 1914.

INTERPRETATION.

Regarding the Decree of September 27, 1914 (for translation see 13 P. & T. M. Rev., 36 Ed.) the following advices appear in 209 *Official Gazette* 1318:

PAYMENT OF FEES AND TAXES IN THE MATTER OF INDUSTRIAL PROPERTY.

The French Patent Office informs us that all payments of fees or taxes on patents are accepted in France whatever may be the nationality or domicile of the holder of the patent, and furthermore that it does not appear that the decree of September 27, 1914, could be interpreted as eventually prohibiting the payment in hostile countries of fees or taxes upon industrial property.

[Notification from French Government to *La Propriété Industrielle* published Nov. 30, 1914.]

The French Administration informs us that all payments of taxes on patents are accepted in France irrespective of the nationality or the domicile of the owner of the patent, and that furthermore it would not appear that the decree of September 27, 1914, is to be interpreted as forbidding the payment, if desired, in enemy countries, of taxes relating to industrial property.

INDUSTRIAL PROPERTY—WAR MEASURES—LAW—EFFECTIVE MAY 30, 1915.

ARTICLE 1. By reason of the state of war and in the interest of the national defense, the working in France of any patented invention or the use of any trade-mark by subjects or dependents of the German and Austro-Hungarian Empires, or by any other person for the account of the above mentioned subjects or dependents, shall be and is prohibited.

This prohibition becomes effective as of August 4 for Germany and August 13 for Austria; it shall be effective during the whole duration of hostilities and until a date that shall later be fixed by decree.

ART. 2. The allowance of patents and grants of licenses, as well as assignments of trade-marks, regularly made by subjects or dependents of the German and Austro-Hungarian Empires, French protégés and dependents of the allied or neutral countries, shall be of full effect on condition that the assignments have acquired a certain date prior to the declaration of the state of war, or if it be duly proven that the grants of licenses and assignments of trade-marks have been actually effected before said declaration.

However, the execution, to the profit of subjects or dependents of the German and Austro-Hungarian Empires, of pecuniary obligations resulting from these assignments of patent, grants of license, or transfers of mark, is prohibited during the period noted in Article 1, and declared null, as contrary to public order.

ART. 3. If any of the patented inventions, whereof the working is prohibited under the terms of Article 1, presents a public interest or is recognized as useful for the national defense, its exploitation may be, totally or partially and for a fixed time, according to the conditions and forms prescribed in Article 4 following, either reserved to the State, or granted to one or several persons of French nationality or French protégés or subjects of the allied or neutral countries that shall be in position to carry on this exploitation.

ART. 4. The exploitation by the State of the patented invention is delegated to the competent public service by order agreed to between the Minister of Commerce, Industry, Posts and Telegraphs, the Minister of Finances, and the Minister interested.

The exploitation by individuals is granted by decree on the suggestion of the Minister of Commerce, Industry, Posts and Telegraphs, according to the clauses and conditions of the table of rules hereto annexed.

The decrees and orders can not be issued until after corresponding agreement by a commission composed as follows:

One Counselor of State;

Two representatives of the Ministry of Commerce, Industry, Posts and Telegraphs;

One representative of the Ministry of Justice;

One representative of the Ministry of War;

One representative of the Ministry of the Navy;

One representative of the Ministry of Foreign Affairs;

Four members chosen from among the members of the Consultation Committee of Arts and Manufactures, of the Technical Commission of the National Office of Industrial Property, of the Tribunal of Commerce of the Seine and of the Chamber of Commerce of Paris;

Four members representing the professional, patronal and labor syndicates.

The Director of the National Office of Industrial Property fulfills the functions of General Director, with a deciding voice.

Technical Directors may be added to the Commission by Ministerial order, with a consultative voice.

The transfer of the concession to a third party is void and of no effect, if it has not been authorized in the form above prescribed.

ART. 5. The provisions of the decree of August 14, 1914, suspending from August 1 the terms in matters of patents of inventions and designs and models shall be of benefit to the subjects and dependents of foreign countries only so far as these countries have granted or shall grant, through reciprocity, equivalent advantages to the French and to French protégés.

ART. 6. The French or French protégés may, in an enemy country, either directly or by attorney, the same as the subjects or dependents of enemy countries in France, under condition of full reciprocity, fulfill all formalities and execute all obligations with the purpose of preserving or obtaining industrial property rights.

However, until it shall be otherwise ordered, the delivery of patents of invention and certificates of addition whereof the application shall have been effected in France by subjects or dependents of the German Empire, counting from August 4, 1914, or by subjects or dependents of the Austro-Hungarian Empire, counting from August 13, 1914, shall be suspended.

ART. 7. The terms of priority provided by Article 4, modified, of the Convention of the International Union of 1883 are suspended dat-

ing from August 1, 1914, for the duration of hostilities and until dates that shall be fixed later by decree.

The benefit of this suspension may be claimed only by subjects of the Union whose country has granted or shall grant the same favor to the French and to French protégés.

ART. 8. Subjects of the German and Austro-Hungarian Empires may, either by reason of their origin or of their family ties, or by reason of services that they have rendered to France, be excepted from the application of the provisions of the present law.

A decree shall determine the conditions of this exception, which shall be proclaimed by ordinance of the civil tribunal rendered on request of the Public Minister.

ART. 9. The provisions of the present law shall be applicable to Algiers and to the colonies of Reunion, Guadaloupe, and Martinique.

It shall become valid by special decree in whatever concerns the other colonies and the countries under protection.

FRANCE—UNITED STATES.

PATENTS—WORKING—SUSPENSION OF TERMS—RECIPROCITY—OFFICIAL INTERPRETATION.¹

[Translation.]

The International Bureau, for the enlightenment of inquirers, made inquiry of the French Administration of Industrial Property (Query No. 139) as to whether, "the legislation of the United States, not recognizing the obligation to work patented inventions, it might be admitted that American citizens that possess patents in France could avail themselves, notwithstanding, of the suspension of working terms provided by decree of August 14, 1914."²

The reply of the French Administration (*La Propriété Industrielle*, August, 1915), translated, is as follows:

"The interpretation of laws and decrees pertains in France exclusively to the courts. However, for countries such as the United States, where legislation imposes no obligation to work patents of invention, it would not appear doubtful that the condition of reciprocity, required by the laws of May 27, 1915,³ is naturally found fulfilled without there being need of any special act, and consequently, citizens of the United States shall *ipso facto* continue to benefit in France by the suspension of working terms provided by the decree of August 14, 1914."

¹ See also 13 P. & T. M. Rev., 268.

² For translation of this decree see 13 P. & T. M. Rev., 296.

³ For translation of this decree see 12 P. & T. M. Rev., 357.

FRANCE.

PATENTS—OF INTEREST TO NATIONAL DEFENSE—"WAR MEASURES"—
LAW OF APRIL 12, 1916.

[Translation.]

[Law relative to inventions of interest to the national defense.]

The Senate and the Chamber of Deputies have adopted,
The President of the Republic promulgates the law whereof the text follows:

ARTICLE 1. In modification of the provisions of the first article of the law of July 5, 1844, the Ministers of War and Navy may be authorized by decree, on condition of an adequate indemnity, to pay to inventors or to their assignees, grantees, or exclusive licencees; to expropriate or have exploited, either in the workshops of the State, (or) in private industrial shops, inventions of interest to the national defense, being the subject of patent applications or of patents granted.

The Ministers of War and Navy, as well as the Minister of Public Instruction, of Fine Arts, and of Inventions of Interest to the National Defense, are, for this purpose, authorized to have inquiry made at the National Office of Industrial Property concerning all patent applications filed.

The decree shall involve, according to the case, the absolute and final expropriation, or the partial or temporary dispossession of the exclusive right of exploitation of the invention reserved to the inventor. It shall be issued after due notice by a commission named by decree and composed of a Counsellor of State, President, a representative of the Ministry of Commerce and Industry, a representative of the Ministry of War, a representative of the Ministry of Navy, and a representative of the Ministry of Public Instruction, of Fine Arts and of Inventions of Interest to the National Defense, the last three having but a single vote.

If it is a matter of an invention for which the patent has not yet been delivered, the decree may determine that it shall be suspended on delivery and on publication thereof;

The indemnity to be paid to the inventor shall be fixed by private agreement, or, if there be disagreement, by three arbiters, named, one by the Ministry or Ministers interested, another by the inventor, and the third by the two others, or, in default of agreement, by the First President of the Court of Appeals of Paris. The first two arbiters shall be named within the month that succeeds the notification of the decree to the inventor; on failure of agreement between the arbiters in the designation of the third arbiter, the First President shall be appealed to by the more diligent party for the purpose of making a nomination.

The arbiters must render their decision within the term of two months counting from the constitution of the arbitral tribunal. The arbitral tribunal shall decide without appeal as to the amount of indemnity to be allowed to the inventor and upon the methods of payment; its decision shall not be susceptible of appeal except to the Court of Cassation on the ground of deficient formalities. The expenses of arbitration shall be borne by the State.

ART. 2. By reason of the state of war, when the publication of an invention wherefor a patent application has been filed is susceptible of presenting dangers or inconveniences for the national defense, a decision of the Minister of Commerce and Industry, made on the recommendation of the Commission provided for in the foregoing article, may prohibit any disclosure or exploitation of the said invention.

This decision is notified to the inventor or to his attorney within the term of two months counting from the filing of the patent application, and, for all applications under consideration, within a term of three months counting from the promulgation of the present law. The delivery, as well as the official publication of the patent and of the specification of the invention, shall remain, the matter being completed, provisionally suspended. No official copy of the documents filed accompanying the patent application shall be delivered in the future, unless validly accepted reasons be furnished concerning the destination of the copy applied for.

ART. 3. Every Frenchman or foreigner admitted to domicile is prohibited from filing abroad, either directly or through attorney, any patent application being the subject of the provisions of Articles 1 and 2.

The same persons are likewise prohibited from depositing abroad any patent application for any invention pertaining to the navy or to navigation, aerostation or aviation, armament, artillery, or military engineering, telegraphy or telephony, powders or explosives, asphyxiating and inflammable materials, and generally to any object susceptible of interesting the army or navy, as well as disclosing or exploiting abroad any invention relative to an object of this character.

However, a French or foreign inventor may, through special decision of the Minister of Commerce, on the recommendation of the Commission provided in the preceding articles, be authorized to file in an allied or neutral country a patent application concerning an invention contemplated in the present law, and, the case allowed, to there exploit the said invention. The decision shall be made within a term that shall not exceed three months counting from the application to this effect presented at the National Office of Industrial Property.

ART. 4. Every breach of the provisions of the present law shall be punishable by the penalties provided in Article 2 of the law of April 18, 1886, concerning espionage, whether it has been committed in France or abroad.

ART. 5. The present law shall remain applicable for the duration of the war and until a date that shall be fixed by decree on the cessation of hostilities.

The present law, deliberated and adopted by the Senate and the Chamber of Deputies, shall be executed as a law of the State.

Done at Paris, April 12, 1916.

(Signed)

R. POINCARÉ.

(Signatures of Ministers.)

(From *Journal Officiel de la République Française*, Apr. 14, 1916.)

GERMANY.

[Law of the 7th of April, 1891.]

We, William, by the Grace of God, German Emperor, King of Prussia, etc., ordain, in the name of the Empire, and with the consent of the Federal Council and Imperial Parliament, as follows:

ARTICLE I. In place of sections 1 to 40 of the Patent Law of the 25th of May, 1877 (Imperial Gazette, p. 501), the following enactments are substituted:

FIRST SECTION.—PATENT LAW.

SECTION 1. Patents are granted for new inventions which allow of industrial application.

Excepted are:

- (1) Inventions the application of which is contrary to the laws or public morals.
- (2) Inventions relating to articles of food, whether for nourishment or for enjoyment, and medicines, as also substances prepared by chemical processes in so far as the inventions do not relate to a definite process for the preparation thereof.

SEC. 2. An invention is not considered new if at the time of applying for a patent under this law it have already been described in printed publications of the last hundred years in such manner or have been so publicly used within the realm, that its use by other experts appears possible.

The foreign official publication of the specifications shall only be considered as printed publications after the end of three months from the date of issue, if the patent be applied for by the person who has applied for the patent abroad, or by his legal representative. This concession, however, only extends to the patent specifications of those States in which, according to a publication in the Imperial Gazette, reciprocity is guaranteed.

SEC. 3. The person who first applies for a patent in accordance with this law is entitled to the grant of the patent. A later application shall not give a right to a patent if the invention form the subject of the patent of the prior applicant. If this supposition be partially a fact, the later applicant has the right only to a patent of corresponding limitation.

An applicant has no right to the grant of the patent if the essential parts of his application have been taken from the descriptions, drawings, models, apparatus, or arrangements of another, or from

a process used by him, without his consent, and if the latter enter an opposition on this ground. If the opposition result in the withdrawal or refusal of the application, the opponent may, if he himself apply for a patent for the invention within a month from the date of the decision relating thereto, demand that his application be dated as of the day previous to the publication of the prior application.

SEC. 4. The patent has the effect that the owner thereof has the exclusive right of manufacturing the object of the invention industrially, bringing it into use, vending or using the same. If the patent be for a process, the right extends to the products directly manufactured by the process.

SEC. 5. The patent is of no effect against a person who, at the time of the application, has already used the invention within the realm, or made the necessary arrangements for using the same. Such person has the right to use the invention for the requirements of his own business in his own works or the works of others. This right can only be inherited or disposed of together with the said business.

The patent has furthermore no effect in so far as according to the decisions of the Imperial Chancellor the invention is to be used for the Army, the Navy, or otherwise in the interests of the public welfare. The owner of the patent has, however, in this case a claim against the Empire or the particular State which has desired the limitation of the patent in its special interests, for adequate compensation, to be settled in a court of law if no arrangement can be come to.

The patent right does not extend to vessels or vehicles which are present in the realm only temporarily.

SEC. 6. The claim to the grant of the patent and the rights arising from the patent pass to the heirs. The claim to the grant of a patent and the patent right may be transferred to others in a restricted or unrestricted manner by agreement, or by testamentary disposition in the case of death.

SEC. 7. The duration of the patent is fifteen years; this term commences with the day following the application for the patent. If an invention relate to the improvement or further development of an invention protected by a patent in favor of the applicant, he may apply for a patent of addition, which terminates with the patent for the older invention.

If, in consequence of the declaration of nullity of the principal patent, a patent of addition become an independent patent, its duration and the date on which the taxes are due is determined by the day of commencement of the principal patent. The date of commencement of the patent of addition determines the annual amount of the taxes. In this case the first patent year is taken to be the interval of

time between the day of application for the patent of addition and the next following anniversary of the commencement of the principal patent.

SEC. 8. For every patent a tax of thirty marks must be paid before the grant (sec. 24, clause 1).

With the exception of patents of addition (sec. 7) there shall, in addition, be paid on account of the patent, at the commencement of the second and every following year of its duration, a tax amounting to fifty marks for the first year and increasing by fifty marks every subsequent year.

This tax (clause 2) shall be paid within six weeks from the date on which it falls due. After the expiration of that time the payment can be made within six further weeks only on payment of an additional tax of ten marks.

The owner of a patent who proves his want of means may obtain the postponement of the payment of the taxes for the first and second year of the duration of the patent until the third year, and if the patent expire at the third year, the said taxes may be entirely remitted.

The payment of the taxes may be effected before they fall due. If the patent be abandoned, or revoked, or declared null and void, the prepaid taxes which are not due shall be refunded.

By a decree of the Federal Council the taxes may be reduced.

SEC. 9. The patent expires if the owner thereof relinquish it, or if the taxes be not paid within the prescribed time at the Patent Office or at a post office within the German Empire.

SEC. 10. The patent is declared null if it be proved:

(1) That the subject matter was not patentable in accordance with sections 1 and 2;

(2) That the invention forms the subject of the patent of a prior applicant;

(3) That the essential part of the subject matter has been taken from the description, drawings, models, implements or arrangements of another person, or from a process used by him, without his consent.

If any one of these suppositions (1 to 3) be only partially proved, the action for declaration of nullity shall have the effect of limiting the patent to a corresponding extent.

SEC. 11. *If the owner of a patent refuse to another person permission to use the invention after an offer to pay reasonable compensation and to give security for such payment, and if it be to the public interest that such permission should be granted, right to use the invention (compulsory license) shall be granted to such person. The right may be granted with restrictions and may be made dependent upon conditions.*

Provided no International Convention forbid, the patent may be withdrawn if the invention be worked exclusively or mainly outside the German Empire or Protectorates. The transfer of the patent to another person shall be inoperative if made merely for the purpose of evading the withdrawal.

No decision under paragraphs 1 and 2 shall be given against the owner of the patent before the expiration of three years from the publication of the grant of the patent.

[NOTE.—The words in *italic* were substituted by Article I of the law of the 6th of June, 1911.]

[Law of the 6th of June, 1911.]

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ART. II. The provisions of the patent law respecting the revocation of a patent shall apply to the procedure and the decision relating to the grant of a compulsory license.

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ART. IV. This law shall come into force on the 1st day of July, 1911.

SEC. 12. Any person not residing within the realm may claim the grant of a patent, and the right accruing therefrom, only if he have appointed a representative within the realm. The latter is empowered to represent the applicant in all proceedings under this law, as also in all civil litigation concerning the patent and actions for penalties or damages. The place where the representative resides, and in the absence of such a residence, the place where the Patent Office is located shall be taken as the place of jurisdiction, according to section 24 of the law on civil actions.

With the consent of the Federal Council the Imperial Chancellor may decree that a right of retaliation shall be put in force against the citizens of a foreign State.

SECOND SECTION.—PATENT OFFICE.

SEC. 13. The grant, the declaration of nullity, and the revocation of a patent is effected by the Patent Office.

The Patent Office has its seat at Berlin. It consists of a president, of members who are qualified for a judicial appointment or for a higher administrative office (legal members), and of members who are experts in a branch of technical industry (technical members). The members are appointed by the Emperor, the president being proposed by the Federal Council. The appointment of the legal members, when they hold an appointment in the service of the Empire or State, is made for the term of such appointment, otherwise for life. The appointment of the technical members is made either for

life or for five years. In the latter case the provisions of section 16 of the law concerning the legal status of imperial officers, of the 31st of March, 1873, do not apply.

SEC. 14. In the Patent Office are instituted:

(1) Departments for the applications for patents.

(2) A department for suits for declaration of nullity or for the revocation of patents.

(3) Departments for appeals.

In the departments for applications, only those technical members who hold life appointments may act. The technical members of the departments for applications may not act in the other departments, and the technical members of the latter may not act in the departments for applications.

To enable decisions to be given in the departments for applications at least three members shall be present, of whom two shall be technical members.

The decisions in the departments for revocations and appeals shall be given by two legal and three technical members. For other decisions the presence of three members shall be sufficient.

The regulations of the civil process law as to the exclusion and rejection of members of the court apply in this case also.

Experts who are not members may be appointed to assist at consultations; they may not take part in decisions.

SEC. 15. The decisions of the sections are made in the name of the Patent Office. They shall be accompanied by the grounds, to be set out in writing and to be sent officially to all interested parties.

SEC. 16. An appeal may be made against the decisions of the application departments and the annulment department. No member may take part in the decisions in respect of an appeal who has taken part in the decision appealed against.

SEC. 17. The formation of the departments, the determination of their scope of action, the modes of procedure inclusive of the mode of giving notification, and the order of business of the Patent Office shall be determined by Imperial Orders, with the assent of the Federal Council, in so far as they are not determined by the present law.

SEC. 18. At the request of the legal tribunals, the Patent Office is bound to give opinions upon questions concerning patents, if contradictory opinions of experts be given in a lawsuit.

The Patent Office is, however, not otherwise empowered to give decisions or opinions outside its legal sphere of business without the consent of the Imperial Chancellor.

SEC. 19. A register or roll shall be kept at the Patent Office, which shall indicate the subject matter and the duration of patents granted, as also the name and place of residence of the proprietors of the patents, and of any representative appointed at the time of applica-

tion. The commencement, termination, expiration, declaration of nullity, and the revocation of the patents shall be noted in the register and at the same time be published in the Imperial Gazette.

If a change take place in the ownership of a patent or in his representative, this shall also be noted in the register and published in the Gazette, if positive evidence with regard thereto be supplied to the Patent Office. So long as this has not been done, the original owner of the patent and his original representative shall remain authorized and liable according to this law.

The inspection of the register or roll, of the descriptions, drawings, models, and samples on the basis of which the patent has been granted, is open to anyone, in so far as it does not relate to a patent taken in the name of the State for the purposes of the Army or Navy.

The Patent Office shall publish the essential features of the specifications and drawings, in so far as these are open to the public, by means of an official journal. In the latter shall also appear the notifications which shall be published in the Imperial Gazette in accordance with this law.

THIRD SECTION—PROCEDURE IN PATENT MATTERS.

SEC. 20. The application for the grant of a patent shall be made in writing at the Patent Office. For each invention a separate application is required. The application must contain the demand for the grant of the patent, and must indicate accurately the subject matter which is to be protected by the patent. The application must be accompanied by a written statement describing the invention in such a manner that the use thereof by others skilled in the art appears possible. At the end of the description must be indicated the features which are to be protected by patent (claim). The necessary drawings, models, and samples must also be delivered.

The Patent Office shall issue rules as to other requirements for the application.

Until the decision as to the publication of the application, amendments of the subject matter shall be allowable. Simultaneously with the application twenty marks shall be paid for the costs of the proceeding.

SEC. 21. The application shall be subjected to a preliminary examination by a member of the application department.

If in such examination the application do not appear to comply sufficiently with the prescribed rules (sec. 20), the applicant shall be required by a notice to remove the defects within a prescribed time.

If the preliminary examination show that no patentable invention exists according to sections 1, 2, and 3, clause 1, the applicant shall

be notified thereof, with an indication of the grounds, and with a request to reply within a certain time.

If the applicant do not answer the preliminary notification (clauses 2 and 3) within the prescribed time, the application shall be considered as withdrawn; if he reply within the time, the application department shall come to a decision in the matter.

SEC. 22. If the application do not comply with the prescribed requirements (sec. 20), or if it be found that no patentable invention exists according to sections 1, 2, and 3, clause 1, the application shall be refused by the department. The member who gave the preliminary decision shall not take part in the final decision.

If the refusal of the application be based upon circumstances that were not already communicated to the applicant in the preliminary notification, he shall first be afforded the opportunity of making a statement with regard thereto within a certain time.

SEC. 23. If the Patent Office consider the application to be in order, and the grant of a patent to be possible, it shall determine on the publication of the application. Upon publication, the legal effects of the patent (secs. 4 and 5) shall provisionally come into force, to the benefit of the inventor, in respect of the subject matter of the invention.

The publication shall be effected by publishing once in the Imperial Gazette the name of the applicant and the essential features of the subject matter contained in his application. The publication shall include a notice that the subject matter of the application is provisionally protected against infringement.

At the same time the application, together with all the accompanying documents, shall be laid open to public inspection at the Patent Office. The publication may also be effected in other places besides Berlin, according to the provisions of section 17.

On the demand of the applicant the publication may be postponed for a time not exceeding six months reckoned from the date of notification of the publication. The application for postponement for three months may not be refused.

In the case of a patent being applied for in the name of the Imperial Administration, for the purposes of the Army or Navy, the patent may, on demand, be granted without any publication. In this case, moreover, the entry in the patent registry shall not take place.

SEC. 24. Within a term of two months after the publication (sec. 23) the first yearly tax (sec. 8, clause 1) must be paid. If the payment be not made within that time the application shall be considered as withdrawn.

Within the same term opposition to the grant of the patent may be lodged. The opposition must be made in writing, and must be accompanied by grounds. It may only be based upon the assertion

that the subject matter is not patentable according to sections 1 and 2, or that the applicant is not entitled to a patent according to section 3. In the case of section 3, clause 2, the injured person only is entitled to oppose.

After the expiration of the term the Patent Office shall decide as to the grant of the patent. The member who has given the preliminary decision (sec. 21) may not take part in this final decision.

SEC. 25. At the preliminary examination, and in the procedure in the application department, the parties interested may be summoned and heard, also witnesses and experts may be examined and any other inquiries necessary for elucidating the matter may be instituted.

SEC. 26. Against the decision by which the application has been refused, the applicant may appeal within one month from the date of the notification, and against decisions on oppositions the applicant or the opponent may also appeal within the same time. On lodging the appeal twenty marks must be paid for the costs of the appeal procedure. If the tax be not paid the appeal shall be considered as not made.

If the appeal be informal or have been filed too late it shall be rejected as not admissible.

If the appeal be considered admissible, the further proceedings shall be determined according to section 25. The summoning and hearing of the parties interested shall take place on the demand of one of them. The demand may only be rejected if the summoning of the applicant have already taken place in the proceedings before the application department.

If the decision on the appeal be based on grounds different from those on which the decision which is appealed against was based, the parties shall first have the opportunity of making a statement thereon.

The Patent Office has the power to decide how far the costs of the appeal shall be borne by the losing side, as also to order that the party whose appeal is considered justified shall have the tax (par. 1) repaid to him.

SEC. 27. If the grant of the patent be finally decided upon, the Patent Office shall cause a notification thereof to be published in the Imperial Gazette, and shall then issue a document for the patentee.

If the application be withdrawn after publication (sec. 23), or if the patent be refused, this shall also be published. The annual tax already paid shall in these cases be refunded. If the patent be refused, the operation of the provisional protection shall cease.

SEC. 28. The institution of proceedings for declaration of nullity or for revocation of the patent takes place only on demand.

In the case of section 10, No. 3, the aggrieved party is alone entitled to apply.

In the case of section 10, No. 1, the application is not allowable if made after the expiration of five years from the date on which the publication of the grant of the patent was effected (sec. 27, clause 1).

The application must be made in writing to the Patent Office, and must state the facts upon which it is based. With the application a fee of fifty marks must be paid. If the payment be not made, the application shall be considered as not having been lodged. The fee shall be refunded if the procedure be carried out without hearing the parties interested.

If the applicant be domiciled abroad, he shall be required to give the other party, on demand, security as to the costs of the proceedings. The amount of security shall be determined by the Patent Office alone. The applicant shall be notified of a time within which the security must be paid, at the time of determining the security. If the security be not paid in before the end of the term, the application shall be considered as withdrawn.

SEC. 29. After the institution of the proceedings has been ordered, the Patent Office on informing the patentee of the application shall require him to answer the same within one month.

If the patentee do not answer within that time, the case may be decided without summoning and hearing the parties interested, and in such decision every assertion made by the applicant may be taken as proved.

SEC. 30. If the patentee reply within the prescribed time, or if, in the case of section 29, clause 2, the case be not decided immediately after the application, the Patent Office shall issue the necessary orders for investigating the matter, and, in the first case, communicate the patentee's answer to the applicant. The Patent Office may order the hearing of witnesses and experts. In this respect the regulations of the code of civil laws shall apply. The depositions must be taken down in writing by a sworn recorder.

The decision shall take place after a summons and hearing of the parties.

* * * * *

[NOTE.—The third paragraph of this section was repealed by Article III of the law of the 6th of June, 1911.]

SEC. 31. In the decision (secs. 29 and 30) the Patent Office shall have power to decide what proportion of the costs of the proceedings shall be charged to the parties to the suit.

SEC. 32. It shall be the duty of the law courts to afford the Patent Office legal assistance. The determination of fines against witnesses or experts who do not appear when summoned, or who refuse to give evidence or to take the oath, as also the compulsory attendance of witnesses who fail to appear, shall be effected on demand through the law courts.

SEC. 33. Against the decision of the Patent Office (secs. 29 and 30) appeals may be lodged. The appeal is to the Imperial Court. It must be lodged in writing at the Patent Office within six weeks from the date of notification, and grounds of appeal must be given.

By the judgment of the court, the costs of the proceedings shall also be determined according to section 31.

In all other respects the proceedings of the court shall be determined by regulations to be drafted by the court and settled by Imperial Order, confirmed by the Federal Council.

SEC. 34. As regards the mode of conducting written and verbal communications before the Patent Office, the regulations in this respect holding good in the law courts shall apply. Communications that are not in the German language shall not be considered.

FOURTH SECTION.—FINES AND DAMAGES.

SEC. 35. Whoever knowingly or by gross negligence makes use of an invention contrary to the regulations of sections 4 and 5 is liable to pay damages to the injured party.

If the invention in question relate to a process for the production of a new substance, all substances of a like nature shall be considered as having been made by a patented process, until proof to the contrary be given.

SEC. 36. Whoever knowingly makes use of an invention against the regulations of sections 4 and 5 shall be punished by a fine not exceeding five thousand marks, or by imprisonment not exceeding one year.

The penal proceedings shall only be instituted on application. This application may be withdrawn.

If punishment be awarded, the injured party shall be authorized to publish the sentence at the cost of the defendant. The mode of publication and the time within which it must be effected shall be determined in the sentence.

SEC. 37. In place of the damages awarded according to this law, the court may, at the request of the plaintiff, award, in addition to the fine or punishment, a penalty not exceeding ten thousand marks, to be paid to him. For this penalty all the defendants are liable as joint debtors.

The award of such penalty shall prevent any further action for damages being instituted.

SEC. 38. In a civil suit in which the plaintiff or defendant advances a claim based on the provisions of this law, the action shall be referred to the Imperial Court for trial and final decision according to section 8 of the regulations of the "Gerichts-Verfassungs-Gesetz."

SEC. 39. No action for infringement of patent right shall lie after the expiration of three years from the date on which any one of the alleged infringements was effected.

SEC. 40. A punishment by fine not exceeding one thousand marks shall be inflicted—

(1) On any person who places upon articles or the packing thereof a mark or description which leads to the erroneous belief that the articles are protected by a patent according to this law ;

(2) On any person who, in public advertisements, on signboards, business cards, or similar publications, employs a designation which is calculated to cause the erroneous impression that the articles mentioned therein are protected by a patent according to this law.

ART. II. The action of section 28, clause 3, of Article I shall extend to all patents now in force, with the condition that the application shall be made within three years from the date on which this law comes into force.

ART. III. This law shall come into force on the 1st day of October, 1891.

PATENT AGENTS ACTS OF THE 21ST OF MAY, 1900.

SECTION 1. The Patent Office shall keep a register of patent agents. In this register shall be entered at their request persons who, practicing on their own account, desire to represent others professionally in matters pertaining to the Patent Office.

SEC. 2. Registration shall only be allowed on the applicant proving his technical qualifications and legal knowledge according to sections 3 and 4.

Registration shall be refused—

1. If the applicant be not resident in Germany ;
2. If he have not completed his twenty-fifth year ;
3. If by legal procedure he be restricted in the disposal of his personal property ;
4. If he have been guilty of improper behavior—political, scientific, and religious beliefs and actions are not considered as such.

If registration be refused according to No. 4 of section 2 an appeal may only be made according to the following regulations. The appeal must be left, in writing, at the Patent Office within one month of the delivery of the decision. The appeal shall be decided by a "Court of Honor." The procedure shall be determined by paragraphs 2 and 3 of section 9 and sections 10, 11, 12, and 13.

SEC. 3. Applicants shall be considered qualified as regards technical knowledge if they have regularly attended a university, technical high school, or school of mines, and, having there studied natural science and technical subjects, have passed either a State or academical examination, and have, in addition, worked practically

in technical matters for at least one year, and have then been employed in connection with the legal protection of industrial property for at least two years.

Attendance at foreign universities and schools and practical working abroad may be held, by a decision of the examining committee (sec. 4), to be sufficient. The technical examination (par. 1) must, however, be passed in Germany.

SEC. 4. The possession of the requisite legal knowledge must be shown by passing an examination, to which only those who have proved their technical qualifications shall be admitted. The examination shall be both oral and written, and shall be mainly directed to ascertaining whether the applicant possesses the capacity of applying practically the regulations relating to the legal protection of industrial property.

The examination shall be carried out before a committee to which members of the Patent Office and patent agents shall be appointed by the Imperial Chancellor. In the event of the applicant not passing the examination he may enter once again after a period, of at least six months, to be determined by the examining committee.

Further particulars as to the composition and functions of the examining committee, the procedure in examinations, and the examination fees shall be decided by an order as to examinations of the Bundesrath.

SEC. 5. A patent agent must conduct his business in a conscientious manner, and show by his conduct in carrying on his business, as also outside the same, that he is worthy of the consideration or esteem which his profession requires. He shall give an assurance for the fulfillment of these obligations, to be confirmed by the shaking of hands. The regulation of section 2, No. 4, shall apply.

SEC. 6. The registration shall be canceled by the Patent Office—

1. On the application of the registered person.

2. On his death.

3. If he do not reside in Germany.

If in consequence of a legal enactment he be restricted in the disposal of his property.

SEC. 7. The registration shall also be canceled if facts that would have prevented the registration according to section 2, No. 4, be subsequently ascertained, or if the registered person contravene the obligations imposed on him under section 5.

In less serious cases of infraction of duty there may be substituted for cancellation of the registration a monetary fine up to 3,000 marks, with which may be combined a reprimand.

SEC. 8. The decisions under section 7 are given by a "Court of Honor."

SEC. 9. The institution of proceedings is determined on by the Imperial Chancellor. Should he consider a preliminary investigation necessary, he shall name the investigating officials.

The accused shall be heard on the points of accusation.

During the proceedings the hearing of witnesses and experts may at any time be ordered. The rules of criminal procedure in relation to evidence and defense apply in this case. Patent agents may be heard for the defense.

SEC. 10. The proceedings are conducted and the decision given by a "Court of Honor" composed of two members of the Patent Office, one a legal and the other a technical member, and three patent agents. The legal member of the Patent Office occupies the chair.

The accused shall have the indictment communicated to him in writing, and shall be requested to attend the hearing.

The rules of criminal procedure relatively to the exclusion and refusal of the legal functionaries are applicable.

The oral proceedings are not public, but the "Court of Honor" may order them to be so; and the hearing must be public if the accused desire it, provided that the conditions of section 173 of the law relating to legal procedure do not apply.

SEC. 11. The decision, including the grounds, shall be in writing, and shall be officially transmitted to the accused. If the decision go against him, he shall bear the actual cost of the investigation.

SEC. 12. The accused may appeal against the decision.

The appeal must be left at the Patent Office within one month from the date on which the decision was transmitted to the accused.

The appeal is decided by "a High Court of Honor" consisting of three members of the Patent Office, of which the chairman and one other must be legal members, and four patent agents. The proceedings are governed by the rules of section 9, paragraph 2, and sections 10 and 11.

SEC. 13. If, before the decision is given, the accused apply to have his name struck off the register, the proceedings shall be stopped. The accused shall then pay the actual cost of the proceedings.

SEC. 14. The Imperial Chancellor shall nominate in advance each year members of the Patent Office to act under sections 10 and 11, and he shall also nominate twenty patent agents, from whom the required number for each court shall be determined by ballot at a public sitting of Appeal Section (I) of the Patent Office.

SEC. 15. The entries in and excisions from the register of the names of patent agents shall be made public.

SEC. 16. Patent agents may apply for the names of persons who are to permanently represent them in business before the Patent Office to be entered in a special column of the register. The prescriptions of sections 2 and 3 apply to such registrations. It is, however, suf-

ficient if the applicant have completed his twenty-first year, and, after passing the State or academical examinations in technical matters, have been practically engaged for at least one year in the province of the legal protection of industrial property. The prescriptions of sections 5, 13, also apply to such persons.

SEC. 17. The president of the Patent Office is empowered to exclude from representation persons who are acting professionally as representatives without being entered on the register. Solicitors are not included in this regulation.

SEC. 18. Patent agents shall not be excluded from the representation of other persons before the Patent Office on the ground of the rule in section 35, paragraph 3, of the *Gewerbe Ordnung*.

SEC. 19. Any person calling himself a "patent agent" or using any similar designation leading to the belief that he is registered as a patent agent, without being so registered, is subject to a penalty of 300 marks, or, if without means, to imprisonment.

SEC. 20. To those persons who, at the time of coming into force of this Act, are already practicing the representative business on their own account, section 17 shall only apply after the 1st of April, 1901. Those who before that date prove the fulfillment of the qualifications of section 3, and apply to be examined under section 4, may not be prevented from practicing as representatives up to the final decision as to their entry on the register, provided no case occur under section 2, paragraph 2.

Whoever at the time of the coming into force of this Act has professionally carried on agency business on his own account since the 1st of January, 1899, shall, on his application, be entered on the register of patent agents, even though he have not complied with the conditions under sections 3 and 4, provided his mode of conducting business and his behavior, both in carrying on his profession and outside the same, have not given rise to material objections.

Such application shall be made before the 1st of April, 1901, and shall be decided on by the examining committee. If the decision be adverse, the applicant may appeal. The appeal shall be lodged in writing at the Patent Office within one month after the applicant was notified of the decision. The appeal shall be heard and finally decided by the "High Court of Honor" (sec. 12, par. 3). The procedure is determined by the prescriptions of sections 9, 10, and 11.

The accused may not be prevented from carrying on his agency business until the final decision has been given.

SEC. 21. Any person who has professionally carried on the agency business since the 1st of January, 1899, even though not on his own account, or who has been employed as a technical member of the Patent Office for at least two years, may on application obtain a certificate as to his qualification as a permanent representative of a

patent agent, even though he have not fulfilled the requirements of section 3, provided his manner of working and behavior have not given rise to material objection. The application and procedure are governed by the prescriptions of section 20, paragraph 3.

Whoever has obtained such certificate shall be entered in the special column of the register (sec. 16) on the application of a patent agent who has intrusted him with his permanent representation. On his own application he shall be admitted to the examination (sec. 4), and in the event of his passing he shall be entered on the register as a patent agent, provided no impediment have arisen under section 2, paragraph 2. The applicant may be excused such examination by a unanimous decision of the examination committee, if his possession of the necessary knowledge be proved by his previous business capacity. An application to this effect must be presented by the 1st of October, 1901, at latest.

SEC. 22. This law shall come into force on the 1st of October, 1900.

So long as a sufficient number of patent agents has not been entered on the register, the Imperial Chancellor shall nominate in lieu thereof persons who have on their own account acted professionally as representatives of others in the matter of the legal protection of industrial property.

GERMANY—GERMAN COLONIES.

INDUSTRIAL PROPERTY—INTERNATIONAL CONVENTION MADE EFFECTIVE.

[Translation.]

[Notice of July 21, 1914, relating to the Paris Convention for the protection of industrial property, revised at Brussels on December 14, 1900, and at Washington on June 2, 1911.]

In view of article 16*b* of the Paris Convention of March 20, 1883, for the protection of industrial property, revised at Brussels on December 14, 1900, and at Washington on June 2, 1911, a declaration in writing was handed to the Swiss Government to the effect that this Convention has become effective in the German protectorates simultaneously with the enforcement thereof in the German Empire.

Berlin, July 21, 1914.

By order of the Chancellor of the Empire:

(Signed) ZIMMERMAN.

(From *Blatt für Patent-, Muster- und Zeichenwesen.*)

GERMANY.

[The act relating to the protection of Gebrauchsmuster. (Utility model patents.)]

We, William, by the grace of God, German Emperor, King of Prussia, etc., after receiving the assent of the Federal Council and of the Parliament of the Empire enact in the name of the Empire as follows:

SECTION 1. Models of implements or useful articles, or parts of the same are protected according to the tenor of this act as useful models, in so far as the same can be applied for the purposes of manufacture or utility in consequence of a new shape, a new arrangement, or a new device.

Models are not considered as new, in so far as, at the date of filing the same according to the provisions of this act, they have been already described in public prints or publicly used in this country (Germany).

SEC. 2. Models, for which protection as useful models is applied for, are to be notified in writing to the Patent Office. The application must state under what title the model is to be registered and what purpose of manufacture or utility the new feature or device is intended to serve. Each and every application must be accompanied by a copy or drawing of the model (in duplicate). In respect to the further requirements of the application the Patent Office will issue regulations.

A fee of 15 marks must be paid for each and every model filed at the time of the application.

SEC. 3. If the application answers to the requirements of section 2 the patent office decrees the registration in the records for useful models. The registration must include the name and residence of the applicant as well as the time of application. The registrations are to be published at definite dates in the *Imperial Gazette*. Changes of ownership will on application be noted on the register. The examination of the register, as well as of the applications by reason of which the registrations were made, is free to everybody.

SEC. 4. The registration of a useful model according to the tenor of section 1 gives the registered applicant the exclusive right of reproducing the model for trade purposes, of introducing on to the market, of displaying or using the implements and articles thus produced. Rights, based on a subsequent application, may not, in so far as they infringe rights based on a prior application, be carried

into effect without the permission of the registered owner of the latter. If the essential contents of the registration are taken, without consent, from the descriptions, drawings, models, implements or arrangements of another person, the protection based on this act shall not affect the injured party.

SEC. 5. In so far as a right founded on section 4 infringes a patent, the application for which was filed prior to the application for protecting the model, the party entered on the register of models may not make use of such right without permission of the first patentee. Similarly, in so far as a right based upon section 4 infringes a patent subsequently filed, the right derived from this patent may not be made use of without the consent of the owner registered in the records of useful models.

SEC. 6. If the requirements of section 1 are wanting, anyone can claim that the registration of the useful model be canceled. In the case of sections 4 and 5, the injured party can claim that the registration of the useful model be canceled.

SEC. 7. The right based on the registration in the records passes over to the heirs and can be transferred, either restricted or unrestricted, to other persons by contract or testament.

SEC. 8. The duration of the protection is three years; the period begins on the day following the application. On payment of a further duty of 60 marks (£3) prior to the expiration of the period, an extension of the period of protection for another three years will be granted. The extension will be registered in the records. If, during the period of protection, the registered party renounces his right to the protection the registration will be canceled. The cancellations of registration not taking place in consequence of the lapse of the period of protection are to be published at definite periods in the *Imperial Gazette*.

SEC. 9. Whoever wittingly or through culpable negligence makes use of a useful model in contravention of the provisions of the sections 4 and 5 is liable for damages to the injured party. Suits concerning infringements of the right of protection become superannuated in three years in consideration of each and every act on which the same is based.

SEC. 10. Whoever wittingly makes use of a useful model in contravention of the provisions of sections 4 and 5 is liable to a fine not exceeding 5,000 marks (£250) or to one year's imprisonment. The prosecution is initiated only on application. The withdrawal of the application is permissible. On the passing of judgment the right to publish the same at the cost of the condemned party is to be immediately awarded to the injured party. The mode of the publication as well as the period for the same is to be determined in the judgment.

SEC. 11. Besides the punishment, a penalty up to 10,000 marks (£500) and payable to the injured party may be fixed, on the application of the latter, in place of all compensation arising out of this law. For this penalty the condemned parties are responsible as joint debtors. A penalty thus fixed excludes the validity of all further claim to compensation.

SEC. 12. In civil suits, in which by plaint or counterplea a claim is made founded on the provisions of this law, the action and decision for final judgment shall be carried to the imperial court in accordance with section 8 of the preamble to the law of legal constitution.

SEC. 13. Whoever has no residence or establishment in this country (Germany) can claim the protection of this law only when in the State in which he has his residence or establishment. German utility models enjoy protection in accordance with a publication contained in the *Imperial Law Gazette*. Whoever files an application based on the above provision must at the same time appoint a representative dwelling in this country (Germany). Name and residence of the representative will be registered on the records. The registered representative is empowered to represent the owner of the protection in suits concerning the useful model, and to institute prosecutions. The place where the representative has his residence and, in want therefore, then the place where the Patent Office has its seat, is, in accordance with section 23 of the law of regulations in civil suits, to be regarded as the place where the object is to be found, viz, where the suit respecting the infringement of the useful model shall be instituted.

SEC. 14. The provisions concerning the rule and practice of the Patent Office, which are required for the execution of this law, will be made by imperial enactment with the consent of the Federal Council.

SEC. 15. This law comes into force on the 1st October, 1891.

Given under the imperial hand and seal on board of our dispatch boat *Greif* the 1st June, 1891.

[L. s.]

(Signed)

WILHELM.
VON BOETTICHER.

[The law for the protection of trade-marks.]

We, William, by the grace of God, German Emperor, King of Prussia, etc., enact in the name of the Empire, with the advice and consent of the Federal Council (Bundesrat) and of the Parliament (Reichstag), as follows:

SECTION 1. Whoever in the course of his business wishes to make use of a trade-mark for the distinction of his goods from the goods

of another, may apply for the registration in the register of trade-marks.

SEC. 2. The register of trade-marks is to be kept at the Patent Office. The application for a trade-mark is to be made at the Patent Office in writing. There must be annexed to each application the designation of the business in which the mark is to be employed, a list of the goods for which it is intended, as well as a clear representation, and in so far as is necessary, a description of the mark. The Patent Office is to issue regulations with regard to the other requirements for the application. For every mark, on application, a fee of 30 marks is to be paid, and on every renewal of the application a fee of 10 marks. If the first application is not prosecuted up to registration, then, of the fee, 20 marks are to be refunded.

SEC. 3. The register of trade-marks shall contain:

- (1) The exact time of the arrival of the application.
- (2) The deposits annexed to the application according to section 2, paragraph 1.

(3) The name and place of abode of the proprietor of the mark and of his representative, if any, as well as changes in the person, name, or place of abode of the proprietor or of the representative.

(4) The exact time of a renewal of the application.

(5) The exact time of the cancellation of the mark.

The inspection of the register of trade-marks is to be free to everybody. Every registration and every cancellation of a mark is to be officially published. The Patent Office is to publish at regular intervals summaries of the marks registered and canceled in the meantime.

SEC. 4. Registration in the register is to be refused in the case of marks common to the trade, as well as in the case of trade-marks—

(1) Which exclusively consist in figures, letters, or in such words as contain information with regard to kind, time and place of manufacture, with regard to the quality, with regard to destination, with regard to price, quantity, or weight of the goods;

(2) Which contain home or foreign State coat of arms, or arms of a town of this country (Germany), or a parish or some community of this country (Germany);

(3) Which contain representations exciting annoyance or such information as evidently does not correspond with the actual facts and causes the danger of deception.

Marks which have become void may not be registered anew for the goods for which they were registered, or for similar goods, on behalf of some one other than the last proprietor, until after the expiration of two years from the date of cancellation.

SEC. 5. If the Patent Office is of the opinion that a trade-mark, the subject of an application, corresponds to another mark, for the

same or for similar goods, previously applied for under the law relating to the protection of marks of November 30, 1874 (*Reichsgesetzblatt*, p. 143), or under the present law, the Patent Office is to communicate this information to the proprietor of this mark. If the same does not lodge an objection, within one month after the notice, against the registration of the newly applied for mark, the mark is to be registered. In the other case, the patent office is to come to a decision as to whether the marks are similar.

If this communication, provided for in the above paragraph, is not made, there is no ground for a claim.

SEC. 6. If the similarity of the marks is negatived by the decision (sec. 5, par. 1), the newly applied for mark is to be registered. If the similarity of the marks is established by the decision, the registration is to be refused. If the applicant wishes to plead that he has a claim to the registration in spite of the similarity established by the decision of the patent office, he must cause this claim to be recognized by means of an action against the opponent. The registration in virtue of a decision, issued in his favor, is to be effected at the exact time of the original application.

SEC. 7. The right based upon the application or registration of a trade-mark passes over to the heirs and may be transmitted to another by a contract or by testament. The right can, however, pass over to another only with the good will of the business to which the trade-mark belongs. The transmission is on the request of the legal successor to be recorded in the register of trade-marks, if the consent of the authorized person is to be produced with clear proof. If the authorized person is dead, the proof of the legal succession is to be produced. As long as the transmission is not recorded in the register of trade-marks, the legal successor can not make good his right from the registration of the trade-mark. Resolutions and decisions of the patent office, which require to be forwarded in official form to the proprietor of the mark, are always to be addressed to the registered proprietor. If it happens that the same is dead, the Patent Office may in their opinion, consider the notification as effected, or, to fulfill the object of the notification, bring it before the heirs.

SEC. 8. On the request of the proprietor, the mark is, at any time, to be cancelled in the register. The cancellation is to take place officially:

(1) If, since the application of the mark, or since its renewal, 10 years have expired.

(2) If the registration of the mark should have been refused.

If cancellation, without the request of the proprietor, is to take place, the patent office is previously to advise the proprietor. If he does not oppose this decision within one month after the notice, the cancellation is to take place. If he opposes, the Patent Office is

to form a decision. If the cancellation is to result in consequence of the expiration of the term of ten years, this is to be disregarded, if the proprietor of the mark, before the expiration of one month after the notice, by the payment of a fee of 10 marks, in addition to the renewal fee, regains the renewal of the application. The renewal then holds good as if made on the day of the expiration of the former term.

SEC. 9. A third party may propose the cancellation of a trade-mark—

(1) If the mark is registered for him, by reason of an earlier application, for the same, or for similar goods, in the register of trade-marks, or in the registers for marks kept according to the law of 30th November, 1874, relating to the protection of marks.

(2) If the business, to which the trade-mark belongs, is no longer continued by the registered proprietor.

(3) If circumstances exist, from which it becomes evident, that the contents of the mark do not correspond with the actual facts, and give ground for danger of deception.

If a trade-mark excluded from registration by the law relating to the protection of marks of 30th November, 1874, has, before the enactment of the present law, a value within interested commercial circles, as a distinguishing mark of the goods of a particular business, the proprietor of the latter, in case the mark is registered according to the present law on behalf of another in the register of trade-marks, may, up to 1 October, 1895, demand the cancellation of the mark. If the demand is granted, the mark may, before the expiration of the term determined in section 4, paragraph 2, be registered in the register of trade-marks, on behalf of the person making the demand.

The demand for cancellation is to be made good by means of an action, and is to be directed against the registered proprietor, or, if the latter is dead, against his heirs.

If, before or after the institution of the action, a transmission of the trade-mark to another has taken place, the decision with regard to the matter is also operative and executory against the legal successor. With regard to the rights of the legal successor to enter into the action, the provisions of sections 63 to 66 and 73 of the regulations in civil suits are to find corresponding application.

In cases of paragraph 1, No. 2, the demand for cancellation may be lodged first of all at the Patent Office. The Patent Office is to give, to the person registered as proprietor of the trade-mark, notice of the same. If the same does not oppose within one month of the notification, the cancellation is to take place. If he opposes, it is to be left to the person making the demand, to prosecute the demand for cancellation by means of an action.

SEC. 10. Applications of trade-marks, applications for transmissions and oppositions against the cancellation of the same, are to be settled in the procedure usual for patent matters, by preliminary notice in official form and decision. In cases of section 5, paragraph 1, a preliminary notice in official form will not be forwarded.

A person making an application, may, against a decision by which his application is rejected, and the proprietor of a trade-mark may, against a decision by which in spite of opposition the cancellation is ordered, within one month after the notification lodge an appeal at the patent office.

Notifications in official form which relate to the registration, transmission, or cancellation of a trade-mark are to take place by means of registered letter. If a notification can not take place in this country (Germany) it is to be effected by posting according to sections 161, 175 of the regulations in civil suits.¹

SEC. 11. The Patent Office, on the request of the courts, is obliged to give opinions with regard to questions which relate to trade-marks, if, in the judicial procedure, there are submitted by several experts, opinions varying one from another.

SEC. 12. The registration of trade-mark has the effect, that to the registered party exclusively belongs the right to provide the goods of the kind notified, or their packing-cases, or covers, with the trade-mark, to place the goods so marked on the market, as well as to apply the mark on announcements, price lists, business letters, notices, bills, or the like.

In the case of cancellation, rights on account of registration can no longer be made good for the time in which there formerly already existed a legal ground for the cancellation.

SEC. 13. By the registration of a trade-mark, no one is to be prevented from applying his name, his signature, his address, as well as information about kind, time, and place of manufacture, about the quality, about the destination, about the price, quantity, or weight of goods, whether it be in abbreviated form, on goods, on their packing cases, or covers, and from employing the like information in commercial intercourse.

SEC. 14. Whoever wittingly or through culpable negligence provides goods, or their packing cases, or covers, or announcements, price lists, business letters, notices, bills, or the like, with the name or the signature of another, or with a trade-mark protected according to the tenor of this law, or brings into commerce, or holds for sale, such illegally marked goods, is liable for damages to the injured party.

¹ Now civil law in the setting of the notification of May 20, 1898 (*Reichsgesetzblatt*, p. 410), sections 66 to 69 and 73.

If he committed the act wittingly, he is besides to be fined with a fine of from 150 to 5,000 marks, or to be imprisoned for a period not exceeding six months. The prosecution is to be initiated only on petition. The withdrawal of the petition is admissible.

SEC. 15. Whoever, for the purpose of deception in trade or commerce, supplies goods or their packing cases, or covers, or announcements, price lists, business letters, notices, bills, or the like, with a get-up which, within interested commercial circles, passes for distinguishing marks of similar goods of another, without his consent, or whoever for the same purpose brings into commerce, or holds such goods for sale, is liable for damages to the injured party and is to be fined with a fine of from 100 to 3,000 marks, or to be imprisoned for a period not exceeding three months. The prosecution is to be initiated only on petition. The withdrawal of the petition is admissible.

SEC. 16. Whoever deceitfully provides goods, or their packing case, or cover, or announcements, price lists, business letters, notices, bills, or the like, with a State coat of arms, or with the name or arms of a place, of a parish, or some community, for the purpose of causing an erroneous idea as to the quality and value of the goods, or who for the same purpose brings such marked goods into commerce or holds such for sale is to be punished by a fine of from 150 to 5,000 marks, or by imprisonment not exceeding six months.

The use of names, which according to trade custom, serves for the designation of certain goods, without being intended to define their origin, does not fall under this provision.

SEC. 17. Foreign goods, which are illegally provided with a German signature and designation as to place, or with a trade-mark registered in the register of trade-marks, are liable on their entry into Germany, for importation or transit, on the petition of the injured party on security to seizure and confiscation. The seizure is to take place by the customs and revenue authorities, the appointment of the confiscation by the sentence of the board of management (sec. 459 of the regulations in penal suits).

SEC. 18. Besides the punishment a penalty not exceeding 10,00 marks (£500), and payable to the injured party, may, on the latter's application, be fixed, in place of all compensation arising out of this law. For this penalty the condemned parties are responsible as joint debtors. A penalty thus fixed excludes the validity of all further claim to compensation.

SEC. 19. If a sentence by reason of sections 14 to 16 and 18, takes place, then, referring to the objects in possession of the sentenced party, the removal of the illegal marks or other characteristic features is to be pronounced by the judge, or if the removal is not possible in any other manner, the destruction of the objects provided with them is to be pronounced by the judge.

If the sentence takes place in the criminal procedure, authority is in the cases of sections 14 and 15 to be awarded to the injured party, to publish the sentence at the expense of the condemned party. The mode of publication as well as the term of the same, is to be stated in the judgment.

SEC. 20. The application of the provisions of this law, is not excluded by variations with which foreign names, signatures, marks, coats of arms, and other distinguishing marks of goods are reproduced, if in spite of these variations, there is a danger of confusion in trade.

SEC. 21. In civil suits in which by plaint or counterplea a claim is made founded on the provisions of this law, the action and decision for final judgment shall be carried to the imperial court in accordance with section 8 of the preamble to the law of legal constitution.

SEC. 22. If German goods abroad, on their importation or transit, are subject to bearing a mark which shows their German origin, or if, in the customs, the same, with reference to the trade marking of the goods, are treated less favorably than the goods of other countries, the Bundesrat is empowered to raise a corresponding tax on the foreign goods on their entry into Germany on importation or transit, and to arrange that in the case of contravention the seizure and confiscation of the goods is to follow. The seizure is to take place by the customs and revenue authorities, the appointment of the confiscation by the sentence of the board of management (sec. 459 of the regulations in penal suits).

SEC. 23. Whoever has no residence or establishment in this country (Germany) has a claim to the protection of this law, only when in the State in which he has his residence or establishment, according to a publication contained in the *Imperial Law Gazette*. German trade markings are admitted to legal protection to the same extent as home trade markings.

The claim on the protection of a trade-mark, and the rights founded upon the registration, can only be put forward through an appointed representative dwelling in this country. The latter is authorized to act as the representative in the procedure taking place in the patent office according to this law, as well as in the civil actions relating to the mark, and is authorized to prosecute. In the case of actions against the registered proprietor of the trade-mark, only that court is competent, in whose district the representative has his residence, otherwise, that court in whose district the patent office is situated.

Whoever brings a foreign trade-mark for application, must provide with it the proof that in the country in which he has his residence, he has applied for and obtained the protection of this mark.

The registration, if State treaties do not determine otherwise, is only admissible, if the mark corresponds to the demands of this law.

SEC. 24. With regard to the trade-marks registered in the register of trade-marks, in conformity with the law relating to the protection of marks of 30 November, 1874, the statements of that law are to find still further application until 1 October, 1898. Marks can at any time before 1 October, 1898, form the subject of registration applications and then come under its provisions. Registration may not be refused with regard to those marks, which have been registered in the registers of marks under an older protection afforded by the law of the land. Registration takes place gratuitously and under the exact time of the first application. With regard to the contents of the first registration, a certificate of the hitherto existing board of registers is to be produced.

On the registration in the register of trade-marks, or if such a registration has not taken place, on the 1 October, 1898, the protection granted to the trade-marks up to that time expires.

SEC. 25. The necessary provisions with regard to forms of procedure and the routine of business of the patent office, for the carrying out of this law, as well as with regard to the procedure before the same are to be made by imperial statute with the consent of Federal council.

SEC. 26. This law is to come into force on the 1 October, 1894.

From the same time onward, applications of trade-marks are no longer to be received under the law relating to the protection of marks of 30 November, 1874.

Given under our imperial hand, signature, and seal, at Neues Palais, 12 May, 1894.

[L. S.]

WILHELM.
VON BOETTICHER.

GERMANY—WAR LEGISLATION.

GERMANY.

PATENTS—APPLICATIONS—TAXES—WORKING—DECREE EFFECTIVE
AUGUST 1, 1914.

[Translation.]

Provisions for the prevention of subjecting applicants for and owners of protection rights to hardship during the time of state of war.

(a) Notification:

The terms stipulated on the part of the Imperial Patent Office having reference to patent, Gebrauchsmuster and trade-mark matters are extended for the period of three months.

Berlin, Aug. 4, 1914, Imperial Patent Office.

(Signed) ROBOLSKI.

(b) Notification:

The terms decreed by the Patent Office having reference to patent, Gebrauchsmuster and trade-mark matters are extended for three months in accordance with the preceding notification.

The Patent Office expects to prevent by means of this measure that applicants for a right, being unable to respond to an office action within the terms stipulated in consequence of the state of war, suffer any disadvantages caused by a non-responsive action. A possible extension of the term remains under reservation.

However, the terms provided for in the laws (term for appeal, payments, etc.) for the modification of which the Patent Office has no authorization, are not affected by this decree. The Patent Office, in particular, may comply with requests for the extension of the payments of taxes only when the payment of the first and second annual tax is concerned, since the patent law makes provision only for a delay in the payment of these taxes. Consequently, the obligation of observing the legally prescribed term remains in force, i. e., the payment of taxes due. If, however, it be impossible to observe in a particular case the legal terms in view of the state of war, it is intended to counteract, as much as possible, by way of the corresponding application of the provisions of the civil code relating to reinstatement to former status, any damages that may result. It is decreed in section 233ff of the civil code that to parties, having been prevented through natural causes or through other unavoidable occurrences from observing a compulsory term, reinstatement to former status be granted after the removal of the preventative cause and upon motion made.

(From *Blatt für Patent-, Muster- und Zeichenwesen*, Aug. 26, 1914.)

PATENTS—GEBRAUCHSMUSTER—TRADE-MARKS—TEMPORARY RELIEF—
DECREE EFFECTIVE SEPTEMBER 10, 1914.

[Translation.]

[Notice regarding the temporary relief provided in matters pertaining to patent, Gebrauchsmuster, and trade-mark rights of September, 1914 (*Reichsgesetzblatt*, No. 74, 1914).]

On the ground of section 3 of the decree relating to the authorization of the Council of State to take political measures, etc., dated

August 4, 1914 (*Reichsgesetzblatt*, p. 327), the Council of State has decreed the following rules:

SECTION 1. The Patent Office may, until further notice, grant upon motion to a patent owner having been prevented in consequence of the war from paying the annual tax due in accordance with section 8, paragraph 2, of the law for patents of April 7, 1891 (*Reichsgesetzblatt*, p. 79), an extension of a term not exceeding nine months from the commencement of the current patent year and release the patentee from the payment of an additional fee (sec. 8, par. 3a). The decision of the Patent Office shall be final.

An extension for the payment of taxes for patents not having lapsed by July 31, 1914, is also allowable even in a case where a motion for an extension has been made after the expiry of the legal terms for payments (sec. 8, par. 3a).

SEC. 2. Whoever has been prevented through the state of war from observing a term of the Patent Office, the failure of which would result, in accordance with the legal provisions, in a legal prejudice, shall, on motion, be reinstated to the former standing. The petition for reinstatement must be made within a term of two months; in other respects the provisions of sections 233ff of the civil code are applicable correspondingly.

SEC. 3. The provisions of sections 1 and 2 shall be applied on behalf of subjects of foreign countries only if similar relief has been granted in these countries to subjects of the German Empire according to a notice to be published in the *Reichsgesetzblatt*.

SEC. 4. This decree takes effect on the day of its publication.

Berlin, September 10, 1914.

(Signed) DELBRÜCK,

The Representative of the Imperial Chancellor.

(From *Reichsgesetzblatt*, Sept. 4, 1914.)

GERMANY—BELGIUM—LUXEMBURG.

INDUSTRIAL PROPERTY—TAXES—DENIAL OF RESPONSIBILITY FOR INFORMATION PUBLISHED IN SEPTEMBER REVIEW.

KAISERLICHES DEUTSCHES GENERALKONSULAT

(IMPERIAL GERMAN CONSULATE GENERAL),

11 Broadway, New York, October 5, 1914.

EDITOR PATENT AND TRADE-MARK REVIEW,

Woolworth Building, New York City.

SIR: My attention has been called to the following statements published in the last issue of your paper:

Belgium.—Having occasion to make inquiry of the German Consul General in New York concerning Luxemburg, which see, the official in charge took occasion to state that Germany has taken over Belgium and that any payment due to the Government in Belgium should be made to the German officials in control.

Luxemburg.—Upon inquiry at the German Consulate in New York, we are informed that the Grand Duchy of Luxemburg has been absorbed by Germany and that any payment due to the Grand Duchy may and should be made at Berlin.

I beg to advise you that the above statements have not been given out by anyone, authorized to speak on behalf of the Consulate General. Please publish in your next issue that the German Consulate General is not responsible for the misleading statement with regard to the status of Belgium and Luxemburg respectively and the payment of dues.

Respectfully,

(Signed) DR. FALCKE,
Imperial German Consul General.

GERMANY.

PATENTS—GEBRAUCHSMUSTER—TRADE-MARKS—TEMPORARY RECIPROCAL RELIEF OF OCTOBER 21, 1914—NOTICE OF OCTOBER 21, 1914.

[Translation.]

By virtue of Article 3 of the decree of the Federal Council of September 10, 1914 (for text of the decree in question see 13 P. & T. M. Rev., 7), relating to the temporary relief in matters pertaining to patent, Gebrauchsmuster, and trade-mark rights (*Reichsgesetzblatt*, p. 403), notice is hereby given that in Denmark, Italy, Norway, Switzerland, Spain, and the United States of America, similar relief is granted to subjects of the German Empire.

Berlin, October 21, 1914.

(Signed) DELBRÜCK,
The Representative of the German Chancellor.

PATENTS—AMERICAN HOLDERS—WAR MEASURES—NOTE VERBALE OF IMPERIAL FOREIGN OFFICE.

[Translation.]

In 211 *Official Gazette*, 287, is published the translation of the *note verbale* of the Imperial German Foreign Office in reply to inquiries

regarding the standing of American applicants for and holders of patents in Germany:

[Inclosure in despatch No. 349.—Translation.]

No. II M 5095, 101040.]

FOREIGN OFFICE.—NOTE VERBALE.

The Foreign Office has the honor to make the following reply to the *note verbale* of the Embassy of the United States of America, dated October 20, 1914, F. O. No. 851:

In view of the state of war the following facilities in patent matters have been introduced in Germany:

The time limits imposed by the Imperial Patent Office in pending matters have been extended for *three months* by proclamation, dated August 4, 1914 (*Blatt für Patent-, Muster- und Zeichenwesen*, 1914, p. 251). Applications for further extension of time will be considered favorably in the future also, in case satisfactory reasons are submitted.

Pursuant to section 1 of the proclamation of September 10, 1914, relative to temporary facilities in patent and trade-mark matters (*Reichsgesetzblatt*, p. 403, *Blatt für Patent-, Muster- und Zeichenwesen*, 1914, p. 290), the provisions of which are applicable in favor of citizens of the United States of America, according to the proclamation of the Imperial Chancellor, dated October 21, 1914 (*Reichsgesetzblatt*, p. 450, *Blatt für Patent-, Muster- und Zeichenwesen*, 1914, p. 315), the Patent Office can until further notice permit deferment of payment of taxes for *nine months* at the most, beginning with the current patent year in the case of any patent holder who has been incapacitated in consequence of the war from paying the annual tax, under section 8, paragraph 2 of the patent law of April 7, 1891, provided such patent holder makes application for extension. The Patent Office can also waive the additional tax provided for by section 8, paragraph 3 of the law cited. On patents which had not expired on July 31, 1914, deferred payment is likewise permissible.

Section 2 of the proclamation of September 10, 1914, mentioned above, affords sufficient protection against the excusable failure to observe legal time limits of all kinds, especially those relating to the filing of appeals or for the assertion of priority rights under the Union. This paragraph provides that such cases shall be continued in case application to this end is made within the period of *two months*, after the ground of hindrance has been removed, and the formalities, compliance with which has been omitted, are satisfied.

Moreover, compulsory manufacture (sec. 11 of the German patent law of June 6, 1911) has been obviated in respect of citizens of the United States of America by the patent agreement between the German Empire and the United States of America, dated February 23, 1909 (*Reichsgesetzblatt*, p. 895.)

The provisions cited above would appear to suffice to appropriately protect the rights of citizens of the United States in patent matters, and to make adequate allowance for the situation created by the war, so that it does not seem to be urgently required that the Imperial Embassy at Washington should accept documents or funds intended for the Imperial Patent Office, the date of such acceptance by the Embassy to be considered authoritatively as the date of such action required by law to be completed before the Patent Office at Berlin. It would be necessary to publish a law or a war ordinance in order to grant the authority mentioned, with the effect which it is desired should attach to it.

However, in order to comply as far as possible with the wish of the Government of the United States of America, the Imperial consulate general at New York and the Imperial consulates at Atlanta, Chicago, Cincinnati, Denver, New Orleans, Philadelphia, San Francisco, Seattle, St. Louis, and St. Paul will be instructed to accept during the war documents and moneys, intended for the Imperial Patent Office, submitted by citizens of the United States of America for transmission; in so doing, however, they must point out to applicants that only the date of arrival of documents or moneys at the Imperial Patent Office shall be considered relevant in asserting their rights. Of course, the consulates can not assume any responsibility that what they send is correctly received by the Imperial Patent Office in due time; they will therefore advise applicants to consider whether they should not avail themselves of other methods of transmission.

Berlin, December 14, 1914.

INDUSTRIAL PROPERTY—WAR MEASURES—PATENT OFFICE PRACTICE.

[Translation.]

[Interpretation of the decree of the Council of State, Sept. 10, 1914, relating to the temporary relief granted in matters pertaining to patents, Gebrauchsmuster, and trade-marks (for translation of which see 13 P. & T. M. Rev., 6).]

In supplement of the rules contained in the decree published in *Blatt für Patent-, Muster- und Zeichenwesen*, October, 1914, attention is called to the following:

1. The authority granted by virtue of section 1 of the decree to the Patent Office has been often interpreted to read that the patent owners also may claim the grace even when they are able to pay the tax due, but when they desire to delay the payment thereof for the reason that they entertain doubts whether the exploitation of the patent in question would be worth while after the conclusion of the war, and if in view of this fact the maintenance of the patent would be expedient. This interpretation is erroneous. A grace may be granted under this decree only to those patent owners who, in consequence of the war, have been prevented from making timely tax payments.

2. The Patent Office may, in accordance with sections 1 and 2 of the decree, decide only after the petitioner has communicated to the Patent Office the actual facts upon which his petition is based. Petitions, merely filed as a precautionary measure without proof, can not be given consideration. This applies particularly to such petitions as are filed by German patent attorneys representing foreign patent owners, with the statement that the reason why the timely payment was not made is not known, but that, perhaps, the presumptions of sections 1 and 2 of the decree prevailed:

Therefore, petitions shall be filed under sections 1 and 2 of the decree only, if the petitioner is in a position to establish grounds therefor. The petitioners, as a rule, will not be placed at a disadvantage thereby, since in section 2 of Article 2 of the decree the peti-

tion for prolongation may be made until the expiry of the longest possible prolongation (see *Blatt für Patent-, Muster- und Zeichenwesen* No. 10, p. 336), and in the case where a reinstatement to the former status is permissible, the two months term for filing in accordance with section 2 of Article 234 of ZPO, the petition commences to run, only from the day on which the obstacle occasioned by the state of war has been removed. A "precautionary" petition for reinstatement is already not permissible for the reason that the neglected procedure (for instance the filing of an appeal or the payment of the fee for the appeal) are inseparable.

3. Besides the petitions made as a precautionary measure there are frequently filed petitions *prematurely*, that is to say, before a tax falls due or before the term fixed for such a procedure has expired. In so far as petitions for prolongation are concerned, it is impossible to grant the same, since the time when the annual tax, the payment for which it is sought to delay, falls due is decisive in respect of the grant of grace, and it can not be seen readily when a petition is prematurely filed, whether the presuppositions of the grant of a grace are still present. Neither may a petition for reinstatement to the former status be filed prematurely, inasmuch as it presupposes the neglect of the action in question and renders necessary the simultaneous procedure with the neglected action.

4. Petitions have been received repeatedly, in which the grace for the payment of an application fee or a fee for an appeal was asked. Therefore, it is once more pointed out that Article 1 of the decree does not refer to these fees or taxes.

(From *Blatt für Patent-, Muster- und Zeichenwesen*, Dec. 30, 1914, p. 384.)

NOTICE OF FEBRUARY 20, 1915.

[Notice of Feb. 20, 1915, concerning the facilities accorded in foreign countries in matters of patents, models of utility, and trade-marks.]

By virtue of paragraph 3 of the ordinance of the Federal Council of the 10th of December, 1914, concerning the temporary facilities accorded in the domain of patents, of models of utility, and of marks (*Bulletin of Laws of the Empire*, p. 403) it is declared by the present that facilities analogous to those provided by the said ordinance are accorded to the citizens of the Empire of Germany in Belgium, in Austria, in Hungary, and in Portugal, and for the moment in France.

PATENTS—APPLICATIONS—GEBRAUCHSMUSTER—TEMPORARY RELIEF—
DECREE OF MARCH 31, 1915.

[Translation.]

[Notification relating to additional relief granted in matters pertaining to patent and Gebrauchsmuster rights.]

The Federal Council, on the ground of Article 3 of the law relating to the authorization of the Federal Council to take political measures, etc., dated August 4, 1914 (notice of which see 13 P. & T. M. Rev., 233, Ed.), issued the following decree:

ARTICLE 1. The authorization conferred upon the Patent Office by virtue of Article 1 of the decree of September 10, 1914, relating to the temporary relief in respect of patent, Gebrauchsmuster, and trade-mark rights, to grant prolongation of term for the payment of taxes is extended to the tax provided in section 1 of Article 8 of the law relating to the protection of Gebrauchsmuster, of June 1, 1891. The term of grace commences from the expiry of the legal term of protection.

ART. 2. A further delay may be granted for the payment of those taxes for patents and Gebrauchsmuster, the term of payment whereof was prolonged, upon motion, said delay being effective from the expiry of the term of payment, if the annulment has not as yet taken place. The Imperial Chancellor determines when the taxes, the payment of which was indefinitely extended until after the termination of the war, shall be paid at the latest.

ART. 3. The President of the Patent Office shall decide in respect of petitions for grace or exemption from taxes. The decision of the President shall be final.

ART. 4. The period for which the publication of a patent application may be suspended (sec. 4 of Art. 23 of the patent law of Apr. 7, 1891) may be prolonged for a year.

The claim of the applicant for a patent to the suspension shall be void if the President of the Patent Office holds that the same is not in conformity with the public interest. The President's ruling in reference thereto is final.

ART. 5. This decree becomes operative April 7, 1915.

The Imperial Chancellor decides when this decree and the decree of September 10, 1914, shall become inoperative.

Berlin, March 31, 1915.

(Signed)

DELBRÜCK,

The Representative of the Chancellor.

(From *Blatt für Patents-, Muster- und Zeichenwesen*, April 28, 1915.)

NOTICE OF MARCH 31, 1915.

[Notice of the Bureau of Patents concerning the extensions granted to foreigners for the payment of annuities upon patents (Mar. 31, 1915).]

Certain persons have expressed the opinion that in applying for an extension for the payment of annuities on patents (notice of Sept. 10, 1914, concerning the temporary facilities in the domain of patents, of models of utility and of marks (Bulletin of Laws of the Empire, p. 403), the citizens of foreign States with regard to whom the existence of reciprocity of treatment has been recognized in the application of paragraph 3 of the above-mentioned notice have the right to be treated according to the rules applicable in their country of origin in the case of extension accorded for the payment of taxes. This point of view is inexact. It results on the contrary from paragraph 3 of the above-mentioned notice, that the citizens of countries in question ought simply to be treated as German patentees. Foreigners who demand an extension for the payment of their annuities ought then to establish, as is required of German patentees, that the conditions indicated in paragraph 1 of the above-mentioned notice are complied with in that which concerns them. They ought, in particular, to justify the facts that because of the war they have been prevented from paying the annuity in default.

PATENTS—APPLICATIONS—PRIORITY UNDER THE CONVENTION—PRO-
LONGATION OF TERM—ORDINANCE EFFECTIVE MAY 7, 1915.

[Translation.]

On the ground of section 3 of the law of August 4, 1914 (*Reichsgesetzblatt*, p. 327), authorizing the Bundesrat to take measures of an economic nature, the Bundesrat has issued the following ordinance:

SECTION 1. The priority time limits, provided in Article 4 of the revised Paris Convention for the protection of industrial property, of June 2, 1911 (*Reichsgesetzblatt*, 1913, p. 209), are extended to the expiration of six months after the termination of the state of war, but at the latest to June 30, 1916, provided they did not expire previous to July 31, 1914. The Imperial Chancellor shall determine the date when the state of war is to be considered as terminated.

These provisions shall apply in favor of subjects of foreign countries when and to the same extent as the priority time limits are prolonged in such countries in favor of German subjects, as shall be certified by proclamation published in the *Reichsgesetzblatt*.

Sec. 2. This ordinance shall take effect the day of its promulgation.

Berlin, May 7, 1915.

(Signed) DELBRÜCK,
The Imperial Chancellor.

(From 215, *Official Gazette*, 978, translation from *Reichsgesetzblatt*, 1915, No. 56.)

NOTICE OF MAY 7, 1915.

[Patent Office notice of 7th May, 1915, concerning the prolongation of terms accorded to applicants domiciled abroad.]

The terms given to applicants living abroad in matters relating to patents, utility models, and trade-marks have been prolonged in accordance with the competent authorities of the Patent Bureau, in so far as they have not been otherwise arranged for in particular cases, to wit:

1. Three months for applicants living in Europe.
2. Four months for applicants living in the United States of America.
3. Six months for applicants living in other countries outside of Europe.

Berlin, 7th May, 1915.

(Signed) ROBOLSKI,
President of the Imperial Patent Bureau.

FOREIGN PATENTS, TRADE-MARKS, ETC.—RESTRICTION, SUPPRESSION, AND LICENSING OF AMERICAN-OWNED PATENTS IN GERMANY.

[Translation.—*Deutscher Reichsanzeiger*, Jan. 5, 1918.]

NOTICE CONCERNING FACILITIES IN THE MATTER OF INDUSTRIAL RIGHTS OF PROTECTION IN THE UNITED STATES OF AMERICA.

(Of Jan. 3, 1918.)

By reason of section 3 of the ordinance of the Federal Council concerning temporary facilities in the matter of patents, utility models (*Gebrauchsmuster*), and trade-marks of September 10, 1914 (*Reichsgesetzblatt*, p. 403; 208 O. G., 339), notice is hereby given that subjects of the German Empire are granted similar facilities in the United States of America.

Berlin, January 3, 1918.

The IMPERIAL CHANCELLOR.
DELBRÜCK,
Acting.

NOTICE CONCERNING INDUSTRIAL RIGHTS OF PROTECTION OF SUBJECTS OF
THE UNITED STATES OF AMERICA.

(Of Jan. 3, 1918.)

By way of retaliation and by reason of paragraph 2, section 7, of the ordinance of the Federal Council concerning industrial rights of protection of subjects of enemy States of July 1, 1915 (*Reichsgesetzblatt*, p. 414; *La Propriété Industrielle*, 1915, p. 82), it is hereby ordered as follows:

ARTICLE 1. The provisions of sections 1, 3, and 4 of the ordinance concerning industrial rights of protection of subjects of enemy States of July 1, 1915, are hereby declared applicable to citizens of the United States of America.

ART. 2. This notice shall go into force on the day of its publication.
Berlin, January 3, 1918.

The IMPERIAL CHANCELLOR.
DELBRÜCK,
Acting.

[Translation from *La Propriété Industrielle* of July 31, 1915, p. 2.]

ORDINANCE CONCERNING THE RIGHTS OF SUBJECTS OF ENEMY COUN-
TRIES IN THE MATTER OF INDUSTRIAL PROPERTY.

(Of July 1, 1915.)

By virtue of section 3 of the law of August 4, 1914, authorizing the Federal Council to adopt measures of an economic order, etc. (*Reichsgesetzblatt*, p. 327), the Federal Council ordains as follows:

SECTION 1. The rights in the matter of patents, utility models, and trade-marks owned by subjects of enemy countries may be restricted or suppressed for the public interest by decision of the Imperial Chancellor. The latter may, in particular, grant to third parties the right to work and use the same.

The decisions referred to may be of retroactive effect. They may at any time be modified and revoked.

SEC. 2. Applications originating with subjects of enemy countries shall not lead to the issue of patents nor to the registration of utility models or of trade-marks. The Patent Office may also suspend the official actions incumbent upon it under the terms of the law or temporarily interrupt pending procedures in the case of subjects of enemy countries. The President of the Patent Office may issue orders in this respect.

SEC. 3. The application of this ordinance shall not be prevented by reason of the fact that the interests at issue may have been assigned to third parties since July 31, 1914, or that subjects of other countries

may have been interposed for the purpose of concealing the true legal situation.

SEC. 4. With subjects of enemy countries are assimilated the subjects of the foreign colonies and possessions of such countries, persons who have their domicile or an establishment in the territory of such countries or of their colonies and foreign possessions, as well as corporate bodies, societies, and enterprises which have their headquarters in the territories mentioned, or which are conducted or superintended from such territories, or the profits of which are to be sent there in whole or in part.

SEC. 5. The following countries are considered enemy countries in the meaning of this ordinance: England, France, and Russia.

SEC. 6. The effects of patents owned by Russian subjects shall be considered to have terminated on March 11, 1915, under reservation of exclusive rights to work and use the inventions which may have been conferred upon subjects of other than enemy countries. Notice of such rights shall be given to the Patent Office and published in the *Reichsgesetzblatt*. Such rights shall not be effective unless brought to the notice of the Patent Office not later than September 30, 1915. The Empire is entitled to exact the compensation agreed upon for the assignment of the right. The payments shall be made to the funds of the Patent Office.

The effect of rights conferred upon Russian subjects in the matter of working or utilizing patents shall be considered to have terminated from and after May 11, 1915.

Applications for patents filed after March 11, 1915, shall not give rise to any right in favor of Russian subjects.

The foregoing provisions (pars. 1 to 3) are applicable by analogy to utility models.

SEC. 7. The Imperial Chancellor shall issue the necessary orders for carrying this ordinance into effect. He may transfer to some other authority the powers conferred upon him by section 1.

The Imperial Chancellor may, by way of retaliation, declare this ordinance applicable, in whole or in part, to the subjects of other countries than those specified in section 5.

SEC. 8. This ordinance shall go into force from the date of its publication (published July 2, 1915). The Imperial Chancellor shall decide when and to what extent it shall cease to be effective.

Berlin, July 1, 1915.

THE IMPERIAL CHANCELLOR,
DELBRÜCK, *Acting*.

PATENTS—AMERICAN HOLDERS—TAXES—WAR MEASURES—NOTE VERBALE OF AUGUST 31, 1915.

[Translation.]

123444.]

In supplement to its *note verbale* of December 14, 1914,¹ No. II M. 5095, the Foreign Office has the honor to communicate the following information to the Embassy of the United States of America:

By virtue of the Bundesrat decrees of September 10, 1914 (*Reichsgesetzblatt*, p. 403), and of March 31, 1915 (*Reichsgesetzblatt*, p. 212), the President of the Imperial Patent Office is in a position to permit deferment of payment in the cases provided, upon application therefor, of the annual dues chargeable according to section 8, paragraph 2, of the patent law for not more than nine months after the beginning of the current patent year, and to waive the additional charge (*ibid.*, sec. 8, par. 3). He may permit further deferment of payment of dues already in abeyance to date from the period of the first deferment. As long as these decrees are in force, the president will make use of this authority in favor of citizens of the United States of America upon their application, unless particularly important reasons stand in the way of so doing in individual cases.

The Imperial Consulate General at New York and the Imperial consulates at Atlanta, Chicago, Cincinnati, Denver, New Orleans, Philadelphia, San Francisco, Seattle, St. Louis, and St. Paul will be informed in the above sense and instructed at the same time, when accepting payments of patent dues to take the application for deferred payment in all cases where it may be made.

Berlin, August 31, 1915.

To the American Embassy, Berlin.

(From 219 *Official Gazette*, 932.)

[Notice of Oct. 10, 1915, from Royal Prussian Minister of War.]

It is in the interests of the country to prevent any inventions made in the Empire which are of importance from a military standpoint, or for satisfying the elementary economic needs of our people, from reaching the knowledge of our enemies. For these reasons we instantly command those interested not to give information of this kind to foreign countries, enemies or neutrals, or those connected with them, by filing a patent application or by communicating with them in any manner whatsoever. If those interested have already obtained protection for these inventions in foreign coun-

¹ See 13, P. & T. M. Rev., 144.

tries they must necessarily abstain from exploiting them, and prevent, so far as is possible, that exploitation is not effected by third persons. In the case where doubts exist on the question of knowing if an invention belongs to one or other classes specified above, the Ministry of War will furnish the necessary information. Attention is drawn to the penal clauses contained in section 1 of the law of June 3, 1914, and in section 89 of the penal code of the Empire.

INDUSTRIAL PROPERTY—CONVENTION—PRIORITY—"WAR MEASURES"—
DECREE (AMENDATORY) OF APRIL 8, 1916.

[Notification concerning extended priority terms.]

By virtue of Article 3 of the law concerning the authorization of the Federal Council for taking economic measures, etc., of August 4, 1914 (*Reichsgesetzblatt*, p. 327), the Federal Council has decreed as follows:

In paragraph 1 of Article 1 of the decree of May 7, 1915 (*Reichsgesetzblatt*, p. 272), concerning the prolongation of the priority terms provided for in Article 4 of the Revised Convention of Paris for the Protection of Industrial Property, of June 2, 1911, the words "but latest to June 30, 1916," are deleted.

This decree becomes effective from the day of its publication.

Berlin, April 8, 1916.

PATENTS—GEBRAUCHSMUSTER—TRADE MARKS—TAXES—PUBLICA-
TION—TEMPORARY RELIEF—"WAR MEASURES"—DECREE (AMEND-
ATORY) OF APRIL 13, 1916.

[Translation.]

[Notification concerning measures for relief in patent, Gebrauchsmuster, and trade-mark matters.]

By virtue of Article 3 of the law concerning the authorization of the Federal Council for taking economic measures, etc., of August 4, 1914 (*Reichsgesetzblatt*, p. 327), the Federal Council has decreed as follows:

ARTICLE 1. In Article 2 of the decree concerning temporary relief measures in matters relating to patent, Gebrauchsmuster, and trade-mark rights, of September 10, 1914 (*Reichsgesetzblatt*, p. 403), the second sentence is deleted and the following paragraph 2 is added:

"The reinstatement must be applied for within a term of two months from the discontinuance of the obstacle. The Chancellor of the Empire shall determine at what period the petition may no longer

be allowed. The provisions of Article 236 and following of the regulation for civil procedure shall be correspondingly applied."

ART. 2. The publication of the patent application may, after the expiration of the time provided for in paragraph 1, of Article 4, of the decree of March 31, 1915, concerning additional relief measures in matters relative to patent and Gebrauchsmuster rights (*Reichsgesetzblatt*, p. 212), be yet delayed longer. The Chancellor of the Empire shall determine upon the duration of suspension.

ART. 3. This decree becomes effective on the day of its publication. The Chancellor of the Empire shall determine upon the day on which it shall become inoperative.

(From *Reichsgesetzblatt*, 1916, p. 278.)

Berlin, April 13, 1916.

PATENTS—GEBRAUCHSMUSTER—TRADE-MARKS—"WAR MEASURES"—
NOTICE OF DECEMBER 28, 1916.

[Translation.]

[Notice concerning the payment, in enemy countries, of taxes relative to industrial property.]

The disposition of the notices of October 13, 1914, December 16, 1914, and October 17, 1916 (*Reichsgesetzblatt*, Oct. 14, 1914, Dec. 16, 1914, and Oct. 18, 1916), according to the terms of which payments necessary for obtaining, preserving, or prolonging the legal protection in patent, Gebrauchsmuster, and trade-mark matters, are not subject, until new order, to the prohibition of making payments in England, France, Russia, and Roumania, shall be applied only to rights belonging to subjects of the Empire, of countries that are allied thereto, and to neutral countries.

Berlin, December 28, 1916.

(Signed) DR. HELFFERICH,
Deputy Chancellor of the Empire.

(Translated from 33 *La Propriété Industrielle*, 69, which credits *Reichsgesetzblatt*, No. 304, of Dec. 28, 1916.)

INDUSTRIAL PROPERTY—GERMAN HOLDERS IN ENEMY COUNTRIES—
"WAR MEASURES"—INQUIRY OF IMPERIAL GERMAN PATENT OFFICE—NOTICE.

[Translation.]

According to German papers, the President of the Patent Office has published the following notice:

Several of the countries at war with Germany have issued provisions having for their aim to annul or suspend rights in patent, Gebrauchsmuster, and

trade-mark rights that, according to the laws in force in those countries, belong to Germans. The information that we have concerning the manner in which these provisions are applied is incomplete. It is therefore desirable and necessary in the interest of those that this concerns that the particular cases in which the rights of Germans have actually been injured as to industrial property be established exactly and completely. The Imperial Patent Office has been authorized to prepare a complete list in this regard. For this, the collaboration of those interested is indispensable. In consequence, the owners of patents, Gebrauchsmuster, and trade-marks protected in enemy countries are invited to inform the Patent Office as early as possible of each official interference brought against their rights—those already brought, as well as those that shall occur later. If the decisions reached can not be produced in the original or by a copy, a clear and precise indication of the state of facts is necessary and sufficient. There should be particularly indicated the country that has granted the right, the object and duration of this latter, as well as the date of the decision rendered against the parties interested, the authority from whom it emanates, and its essential contents (nature and term of the restriction, compensation required, amount of the license). There is no question here of damages to be claimed by the parties interested. Communications on this subject should be addressed to the Imperial Patent Office, Berlin.

(From 32 *La Propriété Industrielle*, Dec., 1916, p. 145.)

PATENTS—GEBRAUCHSMUSTER—OF INTEREST TO NATIONAL DEFENSE—
PUBLICATION PROHIBITED—"WAR MEASURE"—NOTICE NO. 5702, OF
FEBRUARY 8, 1917.

[Translation.]

[Notice prohibiting proceedings for the publication of certain patents of invention and Gebrauchsmuster.]

By virtue of section 3 of the law of August 4, 1914, authorizing the Federal Council to take measures of economic order, etc. (*Reichsgesetzblatt*, 327), the Federal Council has decreed as follows:

SECTION 1. The delivery of a patent shall be made without any publication when the Patent Office, after having heard the Administration of the Army and the Navy, shall consider that the invention ought to remain secret in the interest of the national defense or for the prosecution of the war (*Kriegswirtschaft*).

The same rule shall be applied in whatever concerns the registration of Gebrauchsmuster.

The patent shall be recorded in a special volume of the register of patents and the Gebrauchsmuster in a special volume of the register of Gebrauchsmuster (war register). The contents of the war register shall not be published. Under reservation of the provisions of section 2 it shall not be permitted to examine the war register or of the documents relative to the application after the patent has been delivered or the Gebrauchsmuster has been registered.

SEC. 2. The Administration of the Army and Navy is at liberty to examine the war register, as well as the documents relative to the

deposit of applications for patents and Gebrauchsmuster that concern the national defense or the prosecution of the war.

On petition the Patent Office may, with the consent of the Administration of the Army and Navy, permit other persons to examine the war register, as well as the documents relative to patents delivered and Gebrauchsmuster registered in accordance with section 1.

SEC. 3. If, after having heard the Administration of the Army and Navy, the Patent Office esteems that it is no longer necessary to keep secret the patent or the Gebrauchsmuster, the subsequent procedure shall be governed by the ordinary legal provisions.

SEC. 4. Whoever illegally examines the war register or documents filed by virtue of which a patent has been delivered or a Gebrauchsmuster has been registered, in accordance with section 1, or furnishes to a third party the opportunity to examine same, or communicates the contents thereof to a third party, shall be punished by imprisonment up to one year and a fine up to 5,000 marks, or either of these two penalties.

Attempt at same is punishable.

SEC. 5. The present decree shall become effective the day of its publication. The Chancellor of the Empire shall fix the day whereon it shall cease to be of effect.

Berlin, February 8, 1917.

(Signed) Dr. HELFFERICH.

(From 33 *La Propriété Industrielle*, 18, of Feb. 28, 1917.)

INDUSTRIAL PROPERTY—ALIEN ENEMIES—RIGHTS—WAR MEASURES— DECREE (AMENDATORY) No. 5679, OF FEBRUARY 25, 1917.

[Translation.]

By virtue of section 8 of the decree concerning the rights of subjects of enemy countries in matters of industrial property, of July 1, 1915 (*Reichsgesetzblatt*, 414), it is declared by these presents that said decree, in so far as it concerns Russia and Russian subjects, ceases to be in force with regard to the territories at present comprised within the Government General of Warsaw and the military Government General of Lubin, dating from the day whereon the present notice shall be published, under reservation, however, that:

(1) Whoever shall have made use in the country, during the time comprised between March 11, 1915, and the said date, of an object whereon protection shall have ceased (sec. 6 of above-cited decree), or shall have taken the measures necessary for the use of this object, shall preserve the faculty of making use thereof for the needs of his own establishment.

(2) The rights acquired during the same time by subjects of countries other than enemy countries (sec. 5 of the above-cited decree) shall be respected.

Berlin, January 25, 1917.

(Signed) Dr. HELFFERICH,
Deputy Chancellor of the Empire.

(From 33 *La Propriété Industrielle*, 17, of Feb. 28, 1917.)

INDUSTRIAL PROPERTY—APPLICATIONS—CONVENTION—PRIORITY—
AMERICAN HOLDERS—STATUS AS CONCERNS WAR MEASURES—NOTICE
No. 5843 OF MAY 5, 1917.

[Translation.]

[Notice concerning the prolongation of terms of priority to the United States of America.]

By virtue of section 1, paragraph 2, of the decree of the Federal Council of May 7, 1915, concerning the extension of the terms of priority provided for by Article 4 of the revised Convention of Paris, June 2, 1911, for the protection of industrial property (*Reichsgesetzblatt*, p. 272), it is thereby declared that in the United States of America the terms of priority, in so far as they have not expired prior to August 1, 1914, or will not expire after December 31, 1917, are prolonged in favor of subjects of countries that grant substantially the same rights to United States citizens, even also in favor of German subjects, for a period of nine months. However, this prolongation is granted only when the applicant, by reason of the state of war, has been prevented from observing the term, and it does not apply if and so long as the state of war exists between the country to which the applicant is a subject and the United States of America.

Berlin, May 5, 1917.

(Signed) Dr. HELFFERICH,
Vice Chancellor of the Empire.

(Translation from 33 *La Propriété Industrielle*, 57.)

PATENTS—TRADE MARKS—AMERICAN HOLDERS—ABROGATION OF CERTAIN FACILITIES, "WAR MEASURES"—NOTICE No. 5844 OF MAY 6, 1917.

[Translation.]

[Notice concerning the abrogation of certain temporary facilities accorded to the United States of America in patent and trade-mark matters.]

The notice of October 21, 1914 (*Reichsgesetzblatt*, p. 450), is abrogated in so far as it declares that German subjects enjoy, in the

United States, facilities analogous to those provided for by the decree of the Federal Council, September 10, 1914, concerning temporary facilities granted in the domain of patents, Gebrauchsmuster, and trade-marks (*Reichsgesetzblatt*, p. 403).

Berlin, May 6, 1917.

(Signed) DR. HELFFERICH,
Vice Chancellor of the Empire.

INDUSTRIAL PROPERTY—FEES IN THE UNITED STATES—PROHIBITION OF
PAYMENT—DECREE OF AUGUST 9, 1917—EFFECTIVE AUGUST 13, 1917.

[Translation.]

[Decree prohibiting the making of payments in the United States of America.]

By virtue of the provisions of section 3 of the law of August 4, 1914, authorizing the Federal Council to take measures of economic order, etc. (*Reichsgesetzblatt*, p. 327), the Federal Council has decreed by way of reprisal the following dispositions:

ARTICLE 1. The prescriptions of the decree of September 30, 1914, prohibiting the making of payments in England are declared applicable to the United States of America.

This application is subject to the following restrictions:

1. In order to determine whether the relief extends its effects to the holder, acquirer, or not (see. 2, par. 2, of the decree of Sept. 30, 1914), the only question to be considered is that of knowing whether the acquisition has been effected prior to or after April 6, 1917, without taking account of the domicile or location of the establishment of the acquirer.

2. The dispositions that concern the entry into force of the decree of September 30, 1914, are replaced by those that concern the entry into effect of the present decree.

ART. 2. The Chancellor of the Empire may, by way of reprisal, declare the provisions decreed against enemy States applicable to other countries.

ART. 3. The present decree shall become of effect from the date of its publication.¹ The Chancellor of the Empire shall determine at what date and to what degree it shall cease to be of effect.

Berlin, August 9, 1917.

(Signed) DR. HELFFERICH,
Vice Chancellor of the Empire.

(From 33 *La Propriété Industrielle*, 105.)

¹ Published in *Reichsgesetzblatt*, No. 191, of August 13, 1917.

INDUSTRIAL PROPERTY—FEES IN THE UNITED STATES—PERMISSION OF
PAYMENT—DECREE OF SEPTEMBER 12, 1917.

[Translation.]

[Decree permitting the effecting in the United States of America of payments relative to industrial property (of Sept. 12, 1917).]

By virtue of Article 1, paragraph 1, of the decree of the Federal Council (Bundesrath) of August 9, 1917, interdicting the making of payments in the United States of America (*Reichsgesetzblatt*, No. 708), and of section 7, paragraph 1, of the decree of September 30, 1914 (*Reichsgesetzblatt*, No. 421), the payments prescribed for obtaining, preserving, or prolonging the protection obtained in America in the matter of patents, designs, or models, or of trade-marks for subjects of the Empire, of allied countries, and of neutral States, shall be authorized under new order.

Berlin, September 12, 1917.

(Signed) DR. HELFFERICH,
Vice Chancellor of the Empire.

(From 33 *La Propriété Industrielle*, 117, which credits *Reichsgesetzblatt*, No. 217, of Sept. 12, 1917.)

INDUSTRIAL PROPERTY—GERMAN HOLDERS—NOTIFICATION OF STATUS
IN UNITED STATES—DECREE NO. 6199, OF JANUARY 3, 1918.

[Translation.]

[Decree concerning the facilities granted in the United States of America in industrial property matters.]

By virtue of section 3 of the decree of the Bundesrat of September 10, 1914, concerning the temporary facilities accorded in the domain of patents, Gebrauchsmuster, and trade-marks (*Reichsgesetzblatt*, p. 403), notice is given that in the United States analogous facilities are granted to subjects of the German Empire.

Berlin, January 3, 1918.

By order of the Chancellor of the Empire.

(Signed) DELBRÜCK.

(From 34 *La Propriété Industrielle*, 2.)

INDUSTRIAL PROPERTY.—AMERICAN HOLDERS.—RELIEF MEASURES.—
RECIPROCITY WITH UNITED STATES.—“WAR MEASURES.”—DECREE
No. 6200, OF JANUARY 3, 1918.

[Translation.]

[Decree concerning the rights of citizens of the United States in industrial property matters.]

By virtue of section 7, paragraph 2, of the decree of the Bundesrat of July 1, 1915, concerning the rights of the subjects of

enemy countries in industrial property matters (*Reichsgesetzblatt*, p. 414), the following is ordered by way of reprisal:

ARTICLE 1. The prescriptions of sections 1, 3, and 4 of the decree of July 1, 1915, concerning the rights of the subjects of enemy countries in industrial property matters are declared applicable to citizens of the United States of America.

ART. 2. The present decree shall become effective from the date of its publication.

Berlin, January 3, 1918.

By order of the Chancellor of the Empire.

(Signed)

DELBRÜCK.

(From 34 *La Propriété Industrielle*, 2.)

INDUSTRIAL PROPERTY—APPLICATIONS—CONVENTION—PRIORITY—
AMERICAN HOLDERS—RECIPROCAL RELIEF—"WAR MEASURES"—
DECREE NO. 6198, OF JANUARY 3, 1918.

[Translation.]

[Decree concerning the extension of the terms of priority as to the United States of America.]

By virtue of section 1, paragraph 2, of the decree of the Bundesrat of May 7, 1915, concerning the extension of the terms of priority provided for by Article 4 of the revised Convention of Paris of June 2, 1911, for the protection of industrial property (*Reichsgesetzblatt*, p. 272), the decree of May 5, 1917, concerning the prolongation of the terms of priority as to the United States of America (*Reichsgesetzblatt*, p. 401), is modified to the effect that in the first phrase the words "or will not expire after December 31, 1917," and in the second phrase the words "and it does not apply if and so long as the state of war exists between the country to which the applicant is a subject and the United States of America" are deleted.

Berlin, January 3, 1918.

By order of the Chancellor of the Empire.

(Signed)

DELBRÜCK.

(From 34 *La Propriété Industrielle*, 2.)

GREAT BRITAIN, IRELAND, AND THE ISLE OF MAN.

[A. D. 1623.—21 James I.]

CAP. III.—An act concerning monopolies and dispensations with penal laws, and the forfeitures thereof.

For as much as your most excellent Majesty, in your royal judgment and of your blessed disposition to the weal and quiet of your subjects, did in the year of our Lord 1610, publish in print to the whole realm and to all posterity, that all grants of monopolies and of the benefit of any penal laws, or of power to dispense with the law or to compound for the forfeiture, are contrary to Your Majesty's laws, which Your Majesty's declaration is truly consonant and agreeable to the ancient and fundamental laws of this your realm, (2) and whereas Your Majesty was further graciously pleased expressly to command, that no suitor should presume to move Your Majesty for matters of that nature, (3) yet nevertheless upon misinformations and untrue pretenses of public good many such grants have been unduly obtained, and unlawfully put in execution to the great grievance and inconvenience of Your Majesty's subjects contrary to the laws of this your realm and contrary to Your Majesty's most royal and blessed intention so published as aforesaid, (4) for avoiding whereof and preventing of the like in time to come may it please Your Excellent Majesty at the humble suit of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, that it may be declared and enacted (5) and be it declared and enacted by authority of this present Parliament that all monopolies and all commissions, grants, licenses, charters, and letters patents heretofore made or granted or hereafter to be made or granted to any person or persons bodies politic or corporate whatsoever or for the sole buying, selling, making, working, or using of anything within this realm or the Dominion of Wales, (6) or of any other monopolies or of power, liberty of faculty to dispense with any others or to give license or toleration to do, use, or exercise anything against the tenor or purport of any law or statute, (7) or to give or make any warrant for any such dispensation, license, or toleration to be had or made or to agree to compound with any others for any penalty or forfeitures limited by any statute or of any grant or promise of the benefit, profit, or commodity of any forfeiture, penalty, or sum of money that is or shall be due by any

statute before judgment thereupon had, (8) and all proclamations, inhibitions, restraints, warrants of assistance, and all other matters and things whatsoever anyway tending to the institution, erecting, strengthening, furthering, or countenancing of the same or any of them, (9) are altogether contrary to the laws of this realm and so are and shall be utterly void and of none effect and in no wise to be put in use or execution.

* * * * *

SEC. 6. *Provided also and be it declared and enacted*, That any declaration before mentioned shall not extend to any letters patents and grants of privilege for the term of fourteen years or under hereafter to be made of the sole working or making of any manner of new manufactures within this realm to the true and first inventor and inventors of such manufactures which others at the time of making such letters patents and grants shall not use, so as also they be not contrary to the law nor mischievous to the State by raising prices of commodities at home, or hurt of trade, or generally inconvenient, the said fourteen years to be accounted from the date of the first letters patent or grant of such privilege hereafter to be made, but that the same shall be of such force as they should be if this Act had never been made and of none other.

[7 Edw. 7, Ch. 29.]

An Act to consolidate the enactments relating to patents for inventions and the registration of designs and certain enactments relating to trade-marks (so far as it relates to patents). [28th August, 1907.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I.—PATENTS.

APPLICATION FOR AND GRANT OF PATENT.

Application.

1. (1) An application for a patent may be made by any person who claims to be the true and first inventor of an invention, whether he is a British subject or not, and whether alone or jointly with any other person.

(2) The application must be made in the prescribed form, and must be left at, or sent by post to, the Patent Office in the prescribed manner.

(3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be

the true and first inventor, and for which he desires to obtain a patent, and must be accompanied by either a provisional or complete specification.

(4) The declaration required by this section may be either a statutory declaration or not, as may be prescribed.

Specifications.

2. (1) A provisional specification must describe the nature of the invention.

(2) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.

(3) In the case of any provisional or complete specification, where the comptroller deems it desirable, he may require that suitable drawings shall be supplied with the specification, or at any time before the acceptance of the same, and such drawings shall be deemed to form part of the said specification.

(4) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement of the invention claimed.

(5) Where the invention in respect of which an application is made is a chemical invention, such typical samples and specimens as may be prescribed shall, if in any particular case the comptroller considers it desirable so to require, be furnished before the acceptance of the complete specification.

Proceedings upon application.

3. (1) The comptroller general of patents, designs, and trademarks (hereinafter referred to as the comptroller) shall refer every application to an examiner.

(2) If the examiner reports that the nature of the invention is not fairly described, or that the application, specification, or drawings have not been prepared in the prescribed manner, or that the title does not sufficiently indicate the subject matter of the invention, the comptroller may refuse to accept the application or require that the application, specification, or drawings be amended before he proceeds with the application; and in the latter case the application shall, if the comptroller so directs, bear date as from the time when the requirement is complied with.

(3) Where the comptroller refuses to accept an application or requires an amendment, the applicant may appeal from his decision to the law officer, who shall, if required, hear the applicant and the comptroller, and may make an order determining whether and subject to what conditions (if any) the application shall be accepted.

(4) The comptroller shall, when an application has been accepted, give notice thereof to the applicant.

Provisional protection—Time for leaving complete specification.

4. Where an application for a patent in respect of an invention has been accepted, the invention may during the period between the date of the application and the date of sealing such patent be used and published without prejudice to the patent to be granted for the invention; and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

5. (1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within six months from the date of the application: *Provided*, That where an application is made for an extension of the time for leaving a complete specification, the comptroller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding one month.

(2) Unless a complete specification is so left the application shall be deemed to be abandoned.

Comparison of provisional and complete specification.

6. (1) Where a complete specification is left after a provisional specification, the comptroller shall refer both specifications to an examiner.

(2) If the examiner reports that the complete specification has not been prepared in the prescribed manner, the comptroller may refuse to accept the complete specification until it has been amended to his satisfaction.

(3) If the examiner reports that the invention particularly described in the complete specification is not substantially the same as that which is described in the provisional specification, the comptroller may—

(a) Refuse to accept the complete specification until it has been amended to his satisfaction; or

(b) (with the consent of the applicant) Cancel the provisional specification and treat the application as having been made on the date at which the complete specification was left, and the application shall have effect as if made on that date:

Provided, That where the complete specification includes an invention not included in the provisional specification, the comptroller may allow the original application to proceed so far as the invention included both in the provisional and in the complete specification is concerned, and treat the claim for the additional invention included

in the complete specification as an application for that invention made on the date at which the complete specification was left.

(4) A refusal of the comptroller to accept a complete specification shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the comptroller and may make an order determining whether and subject to what conditions (if any) the complete specification shall be accepted.

(5) Unless a complete specification is accepted within twelve months from the date of the application, the application shall (except where an appeal has been lodged) become void: *Provided*, That where an application is made for an extension of time for the acceptance of a complete specification, the comptroller shall, on payment of the prescribed fee, grant an extension of time to the extent applied for but not exceeding three months.

Investigation of previous specifications in United Kingdom on applications for patents.

7. (1) Where an application for a patent has been made and a complete specification has been left, the examiner shall, in addition to the other inquiries which he is directed to make by this Act, make a further investigation for the purpose of ascertaining whether the invention claimed has been wholly or in part claimed or described in any specification (other than a provisional specification not followed by a complete specification) published before the date of the application, and left pursuant to any application for a patent made in the United Kingdom within fifty years next before the date of the application.

(2) If on investigation it appears that the invention has been wholly or in part claimed or described in any such specification, the applicant shall be informed thereof, and the applicant may, within such time as may be prescribed, amend his specification, and the amended specification shall be investigated in like manner as the original specification.

(3) If the comptroller is satisfied that no objection exists to the specification on the ground that the invention claimed thereby has been wholly or in part claimed or described in a previous specification as before mentioned, he shall, in the absence of any other lawful ground of objection, accept the specification.

(4) If the comptroller is not so satisfied, he shall, after hearing the applicant, and unless the objection is removed by amending the specification to the satisfaction of the comptroller, determine whether a reference to any, and, if so, what prior specifications ought to be made in the specification by way of notice to the public: *Provided*, That the comptroller, if satisfied that the invention claimed has been

wholly and specifically claimed in any specification to which the investigation has extended, may, in lieu of requiring references to be made in the applicant's specification as aforesaid, refuse to grant a patent.

(5) An appeal shall lie from the decision of the comptroller under this section to the law officer.

(6) The investigations and reports required by this section shall not be held in any way to guarantee the validity of any patent, and no liability shall be incurred by the Board of Trade or any officer thereof by reason of, or in connection with, any such investigation or report, or any proceeding consequent thereon.

Investigation of specifications published subsequently to application.

8. (1) An investigation under the last preceding section shall extend to specifications published after the date of the application in respect of which the investigation is made, and being specifications which have been deposited pursuant to prior applications; and that section shall, subject to rules under this Act, have effect accordingly.

(2) Where, on such an extended investigation, it appears that the invention claimed in the specification deposited pursuant to an application is wholly or in part claimed in any published specification deposited pursuant to a prior application, the applicant shall, whether or not his specification has been accepted or a patent granted to him, be afforded such facilities as may be prescribed for amending his specification, and in the event of his failing to do so the comptroller shall, in accordance with such procedure as may be prescribed, determine what reference, if any, to other specifications ought to be made in his specification by way of notice to the public.

(3) For the purpose of this section an application shall be deemed to be prior to another application if the patent applied for when granted would be of prior date to the patent granted pursuant to that other application.

(4) This section shall come into operation at such date as the Board of Trade may by order direct, and shall apply only to applications made after that date, and the order shall be laid before both Houses of Parliament.

Advertisement on acceptance of complete specification.

9. On the acceptance of the complete specification the comptroller shall advertise the acceptance; and the application and specifications with the drawings (if any) shall be open to public inspection.

Effect of acceptance of complete specification.

10. After the acceptance of a complete specification and until the date of sealing a patent in respect thereof, or the expiration of the

time for sealing, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the acceptance of the complete specification: *Provided*, That an applicant shall not be entitled to institute any proceeding for infringement until a patent for the invention has been granted to him.

Opposition to grant of patent.

11. (1) Any person may at any time within two months from the date of the advertisement of the acceptance of a complete specification give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds:

(a) That the applicant obtained the invention from him, or from a person of whom he is the legal representative; or

(b) That the invention has been claimed in any complete specification for a British patent which is or will be of prior date to the patent the grant of which is opposed, other than a specification deposited pursuant to an application made more than fifty years before the date of the application for such last-mentioned patent; or

(c) That the nature of the invention or the manner in which it is to be performed is not sufficiently or fairly described and ascertained in the complete specification; or

(d) That the complete specification describes or claims an invention other than that described in the provisional specification, and that such other invention forms the subject of an application made by the opponent in the interval between the leaving of the provisional specification and the leaving of the complete specification, but on no other ground.

(2) Where such notice is given the comptroller shall give notice of the opposition to the applicant, and shall, on the expiration of those two months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case.

(3) The decision of the comptroller shall be subject to appeal to the law officer, who shall, if required, hear the applicant and the opponent, if the opponent is, in his opinion, a person entitled to be heard in opposition to the grant of the patent, and shall decide the case; and the law officer may, if he thinks fit, obtain the assistance of an expert, who shall be paid such remuneration as the law officer with the consent of the treasury may determine.

Grant and sealing of patent.

12. (1) If there is no opposition, or, in case of opposition, if the determination is in favor of the grant of a patent, a patent shall, on payment of the prescribed fee, be granted to the applicant, or in the

case of a joint application to the applicants jointly, and the comptroller shall cause the patent to be sealed with the seal of the Patent Office.

(2) A patent shall be sealed as soon as may be, and not after the expiration of fifteen months from the date of application, provided that—

(a) Where the comptroller has allowed an extension of the time within which a complete specification may be left or accepted, a further extension of four months after the said fifteen months shall be allowed for the sealing of the patent.

(b) Where the sealing is delayed by an appeal to the law officer, or by opposition to the grant of the patent, the patent may be sealed at such time as the law officer may direct.

(c) Where the patent is granted to the legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at any time within twelve months after the date of his death.

(d) Where in consequence of the neglect or failure of the applicant to pay any fee a patent can not be sealed within the period allowed by this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed, and this provision shall, in such cases as may be prescribed and subject to the prescribed conditions, apply where the period allowed for the sealing of the patent has expired before the commencement of this Act.

Date of patent.

13. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application: *Provided*, That no proceedings shall be taken in respect of an infringement committed before the publication of the complete specification.

Effect, extent, and form of patent.

14. (1) A patent sealed with the seal of the Patent Office shall have the same effect as if it were sealed with the Great Seal of the United Kingdom, and shall have effect throughout the United Kingdom and the Isle of Man: *Provided*, That a patentee may assign his patent for any place in or part of the United Kingdom, or Isle of Man, as effectually as if the patent were originally granted to extend to that place or part only.

(2) Every patent may be in the prescribed form and shall be granted for one invention only, but the specification may contain more than one claim; and it shall not be competent for any person

in an action or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

Fraudulent applications for patents.

15. (1) A patent granted to the true and first inventor shall not be invalidated by an application in fraud of him, or by provisional protection obtained thereon, or by any use or publication of the invention subsequent to that fraudulent application during the period of provisional protection.

(2) Where a patent has been revoked on the ground of fraud, the comptroller may, on the application of the true inventor made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked: *Provided*, That no action shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.

Single patent for cognate inventions.

16. (1) Where the same applicant has put in two or more provisional specifications for inventions which are cognate or modifications one of the other, and has obtained thereby concurrent provisional protection for the same, and the comptroller is of opinion that the whole of such inventions are such as to constitute a single invention and may properly be included in one patent, he may accept one complete specification in respect of the whole of such applications and grant a single patent thereon.

(2) Such patent shall bear the date of the earliest of such applications, but in considering the validity of the same and for the purpose of the provisions of this Act with respect to oppositions to the grant of patents, the court or the comptroller, as the case may be, shall have regard to the respective dates of the provisional specifications relating to the several matters claimed therein.

TERM OF PATENT.

17. (1) The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be fourteen years from its date.

(2) A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times: *Provided*, That the comptroller, upon the application of the patentee, shall, on receipt of such additional fee, not exceeding £10, as may be prescribed, enlarge the time to such an extent as may be applied for, but not exceeding three months.

(3) If any proceeding is taken in respect of an infringement of the patent committed after a failure to pay any fee within the prescribed time, and before any enlargement thereof, the court before which the proceeding is proposed to be taken may, if it thinks fit, refuse to award any damages in respect of such infringement.

Extension of term of patent.

18. (1) A patentee may, after advertising in manner provided by rules of the Supreme Court his intention to do so, present a petition to the court praying that his patent may be extended for a further term, but such petition must be presented at least six months before the time limited for the expiration of the patent.

(2) Any person may give notice to the court of objection to the extension.

(3) On the hearing of any petition under this section the patentee and any person who has given such notice of objection shall be made parties to the proceeding, and the comptroller shall be entitled to appear and be heard, and shall appear if so directed by the court.

(4) The court, in considering its decision, shall have regard to the nature and merits of the invention in relation to the public, to the profits made by the patentee as such, and to all the circumstances of the case.

(5) If it appears to the court that the patentee has been inadequately remunerated by his patent, the court may by order extend the term of the patent for a further term not exceeding seven, or, in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and containing any restriction, conditions, and provisions the court may think fit.

Patents of addition.

19. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may, if he thinks fit, in his application for the further patent, request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired.

(2) Where an application containing such a request is made, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(3) A patent of addition shall remain in force so long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal.

(4) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

RESTORATION OF LAPSED PATENTS.

20. (1) Where any patent has become void owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may apply to the comptroller in the prescribed manner for an order for the restoration of the patent.

(2) Every such application shall contain a statement of the circumstances which have led to the omission of the payment of the prescribed fee.

(3) If it appears from such statement that the omission was unintentional and that no undue delay has occurred in the making of the application, the comptroller shall advertise the application in the prescribed manner, and within such time as may be prescribed any person may give notice of opposition at the Patent Office.

(4) Where such notice is given the comptroller shall notify the applicant thereof.

(5) After the expiration of the prescribed period the comptroller shall hear the case and, subject to an appeal to the court, issue an order either restoring the patent or dismissing the application: *Provided*, That in every order under this section restoring a patent such provisions as may be prescribed shall be inserted for the protection of persons who may have availed themselves of the subject matter of the patent after the patent had been announced as void in the illustrated official journal.

AMENDMENT OF SPECIFICATION.

Amendment of specification by comptroller.

21. (1) An applicant or a patentee may at any time, by request in writing left at the Patent Office, seek leave to amend his specification, including drawings forming part thereof, by way of disclaimer, correction, or explanation, stating the nature of, and the reasons for, the proposed amendment.

(2) The request and the nature of the proposed amendment shall be advertised in the prescribed manner, and at any time within one month from its first advertisement any person may give notice at the Patent Office of opposition to the amendment.

(3) Where such a notice is given the comptroller shall give notice of the opposition to the person making the request, and shall hear and decide the case.

(4) Where no notice of opposition is given, or the person so giving notice of opposition does not appear, the comptroller shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(5) The decision of the comptroller in either case shall be subject to an appeal to the law officer, who shall, if required, hear the person making the request to amend and, where notice of opposition has been given, the person giving that notice, if he is, in the opinion of the law officer, entitled to be heard in opposition to the request, and, where there is no opposition, the comptroller, and may make an order determining whether and subject to what conditions (if any) the amendment ought to be allowed.

(6) No amendment shall be allowed that would make the specification, as amended, claim an invention substantially larger than or substantially different from the invention claimed by the specification as it stood before amendment.

(7) Leave to amend shall be conclusive as to the right of the party to make the amendment allowed, except in case of fraud; and the amendment shall be advertised in the prescribed manner, and shall in all courts and for all purposes be deemed to form part of the specification.

(8) This section shall not apply when and so long as any action for infringement or proceeding before the court for the revocation of a patent is pending.

Amendment of specification by the court.

22. In any action for infringement of a patent or proceedings before a court for the revocation of a patent the court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the court may think fit: *Provided*, That no amendment shall be so allowed that would make the specification, as amended, claim an invention substantially larger than, or substantially different from, the invention claimed by the specification as it stood before the amendment, and where an application for such an order is made to the court notice of the application shall be given to the comptroller, and the comptroller shall have the right to appear and be heard, and shall appear if so directed by the court.

Restriction on recovery of damages.

23. Where an amendment of a specification by way of disclaimer, correction, or explanation, has been allowed under this Act, no damages shall be given in any action in respect of the use of the invention

before the disclaimer, correction, or explanation, unless the patentee establishes to the satisfaction of the court that his original claim was framed in good faith and with reasonable skill and knowledge.

COMPULSORY LICENSES AND REVOCATION.

24. (1) Any person interested may present a petition to the Board of Trade alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory license, or, in the alternative, for the revocation of the patent.

(2) The Board of Trade shall consider the petition, and if the parties do not come to an arrangement between themselves the Board of Trade, if satisfied that a *prima facie* case has been made out, shall refer the petition to the court, and, if the Board are not so satisfied, they must dismiss the petition.

(3) Where any such petition is referred by the Board of Trade to the court, and it is proved to the satisfaction of the court that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered by the court to grant licenses on such terms as the court may think just, or, if the court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of licenses, the patent may be revoked by order of the court: *Provided*, That an order of revocation shall not be made before the expiration of three years from the date of the patent, or if the patentee gives satisfactory reasons for his default.

(4) On the hearing of any petition under this section the patentee and any person claiming an interest in the patent as exclusive licensee or otherwise, shall be made parties to the proceeding, and the law officer or such other counsel as he may appoint shall be entitled to appear and be heard.

(5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied—

(a) If by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working, or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry, or the establishment of any new trade or industry in the United Kingdom is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or

(b) If any trade or industry in the United Kingdom is unfairly prejudiced by the conditions attached by the patentee before or after

the passing of this Act to the purchase, hire, or use of the patented article or to the using or working of the patented process.

(6) An order of the court directing the grant of any license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a license and made between the parties to the proceeding.

Revocation of patent.

25. (1) Revocation of a patent may be obtained on petition to the court.

(2) Every ground on which—

(a) A patent might, immediately before the 1st day of January, 1884, have been repealed by *scire facias*; or

(b) A patent may be revoked under this Act either by the comptroller or as an alternative to the grant of a compulsory license; shall be available by way of defense to an action of infringement and shall also be a ground of revocation under this section.

(3) A petition for revocation of a patent may be presented—

(a) By the attorney general or any person authorized by him; or

(b) By any person alleging—

(i) That the patent was obtained in fraud of his rights, or of the rights of any person under or through whom he claims; or

(ii) That he, or any person under or through whom he claims, was the true inventor of any invention included in the claim of the patentee; or

(iii) That he, or any person under or through whom he claims an interest in any trade, business, or manufacture, had publicly manufactured, used, or sold, within this realm, before the date of the patent, anything claimed by the patentee as his invention.

Power of comptroller to revoke patents on certain grounds.

26. (1) Any person who would have been entitled to oppose the grant of a patent, or is the successor in interest of a person who was so entitled, may, within two years from the date of the patent, in the prescribed manner apply to the comptroller for an order revoking the patent on any one or more of the grounds on which the grant of the patent might have been opposed: *Provided*, That when an action for infringement or proceedings for the revocation of the patent are pending in any court, an application under this section shall not be made except with the leave of the court.

(2) The comptroller shall give notice of the application to the patentee, and after hearing the parties, if desirous of being heard, may make an order revoking the patent or requiring the specifica-

tion relating thereto to be amended by disclaimer, correction, or explanation, or dismissing the application; but the comptroller shall not make an order revoking the patent unless the circumstances are such as would have justified him in refusing to grant the patent had the proceedings been proceedings in an opposition to the grant of a patent.

(3) A patentee may at any time, by giving notice in the prescribed manner to the comptroller, offer to surrender his patent, and the comptroller may, if after giving notice of the offer and hearing all parties who desire to be heard he thinks fit, accept the offer, and thereupon make an order for the revocation of the patent.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court.

Revocation of patents worked outside the United Kingdom.

27. (1) At any time not less than four years after the date of a patent and not less than one year after the passing of this Act, any person may apply to the comptroller for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the United Kingdom.

(2) The comptroller shall consider the application, and, if after inquiry he is satisfied that the allegations contained therein are correct, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in the United Kingdom, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the comptroller may make an order revoking the patent either—

(a) Forthwith; or

(b) After such reasonable interval as may be specified in the order, unless in the meantime it is shown to his satisfaction that the patented article or process is manufactured or carried on within the United Kingdom to an adequate extent.

Provided, That no such order shall be made which is at variance with any treaty, convention, arrangement, or engagement with any foreign country or British possession.

(3) If within the time limited in the order the patented article or process is not manufactured or carried on within the United Kingdom to an adequate extent, but the patentee gives satisfactory reasons why it is not so manufactured or carried on, the comptroller may extend the period mentioned in the previous order for such period not exceeding twelve months as may be specified in the subsequent order.

(4) Any decision of the comptroller under this section shall be subject to appeal to the court, and on any such appeal the law officer

or such other counsel as he may appoint shall be entitled to appear and be heard.

REGISTER OF PATENTS.

28. (1) There shall be kept at the Patent Office a book called the Register of Patents, wherein shall be entered the names and addresses of grantees of patents, notifications of assignments and of transmissions of patents, of licenses under patents, and of amendments, extensions, and revocations of patents, and such other matters affecting the validity or proprietorship of patents as may be prescribed.

(2) The register of patents existing at the commencement of this Act shall be incorporated with and form part of the register of patents under this Act.

(3) The register of patents shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

(4) Copies of deeds, licenses, and any other documents affecting the proprietorship in any letters patent or in any license thereunder, must be supplied to the comptroller in the prescribed manner for filing in the Patent Office.

CROWN.

Patent to bind Crown.

29. A patent shall have to all intents the like effect as against His Majesty the King as it has against a subject: *Provided*, That any Government department may, by themselves, their agents, contractors, or others, at any time after the application, use the invention for the services of the Crown on such terms as may, either before or after the use thereof, be agreed on, with the approval of the treasury, between the department and the patentee, or, in default of agreement, as may be settled by the treasury after hearing all parties interested.

Assignment to Secretary for War or the Admiralty of certain inventions.

30. (1) The inventor of any improvement in instruments or munitions of war may (either for or without valuable consideration) assign to the Secretary of State for War or the Admiralty on behalf of His Majesty all the benefit of the invention and of any patent obtained or to be obtained for the invention; and the Secretary of State or the Admiralty may be a party to the assignment.

(2) The assignment shall effectually vest the benefit of the invention and patent in the Secretary of State or the Admiralty on behalf

of His Majesty, and all covenants and agreements therein contained for keeping the invention secret and otherwise shall be valid and effectual (notwithstanding any want of valuable consideration), and may be enforced accordingly by the Secretary of State or the Admiralty.

(3) Where any such assignment has been made, the Secretary of State or the Admiralty may at any time before the publication of the complete specification certify to the comptroller that, in the interest of the public service, the particulars of the invention and of the manner in which it is to be performed should be kept secret.

(4) If the Secretary of State or the Admiralty so certify, the application and specifications, with the drawings (if any), and any amendment of the complete specification, and any copies of such documents and drawings shall, instead of being left in the ordinary manner at the Patent Office, be delivered to the comptroller in a packet sealed by authority of the Secretary of State or the Admiralty.

(5) The packet shall, until the expiration of the term during which a patent for the invention may be in force, be kept sealed by the comptroller, and shall not be opened save under the authority of an order of the Secretary of State or the Admiralty or of the law officer.

(6) The sealed packet shall be delivered at any time during the continuance of the patent to any person authorized by the Secretary of State or the Admiralty to receive it, and shall if returned to the comptroller be again kept sealed by him.

(7) On the expiration of the term of the patent, the sealed packet shall be delivered to the Secretary of State or the Admiralty.

(8) Where the Secretary of State or the Admiralty certify as aforesaid, after an application for a patent has been left at the Patent Office but before the publication of the complete specification, the application and specifications, with the drawings (if any), shall be forthwith placed in a packet sealed by authority of the comptroller, and the packet shall be subject to the foregoing provisions respecting a packet sealed by authority of the Secretary of State or the Admiralty.

(9) No proceeding by petition or otherwise shall lie for revocation of a patent granted for an invention in relation to which a certificate has been given by the Secretary of State or the Admiralty as aforesaid.

(10) No copy of any specification or other document or drawing, by this section required to be placed in a sealed packet, shall in any manner whatever be published or open to the inspection of the public, but, save as in this section otherwise directed, the provisions of this Act shall apply in respect of any such invention and patent as aforesaid.

(11) The Secretary of State or the Admiralty may at any time waive the benefit of this section with respect to any particular

invention, and the specifications, documents, and drawings shall be thenceforth kept and dealt with in the ordinary way.

(12) The communication of any invention for any improvement in instruments or munitions of war to the Secretary of State or the Admiralty, or to any person or persons authorized by the Secretary of State or the Admiralty to investigate the same or the merits thereof, shall not, nor shall anything done for the purposes of the investigation, be deemed use or publication of such invention so as to prejudice the grant or validity of any patent for the same.

(13) Rules may be made under this Act, after consultation with the Secretary of State and the Admiralty, for the purpose of insuring secrecy with respect to patents to which this section applies, and those rules may modify any of the provisions of this Act in their application to such patents as aforesaid so far as may appear necessary for the purpose aforesaid.

LEGAL PROCEEDINGS.

Hearing with assessor.

31. (1) In an action or proceeding for infringement or revocation of a patent, the court may, if it think fit, and shall on the request of either of the parties to the proceeding, call in the aid of an assessor specially qualified, and try the case wholly or partially with his assistance; the action shall be tried without a jury unless the court otherwise directs.

(2) The Court of Appeal may, if they think fit, in any proceeding before them, call in the aid of an assessor as aforesaid.

(3) The remuneration, if any, to be paid to an assessor under this section shall be determined by the court or the Court of Appeal, as the case may be, and be paid as part of the expenses of the execution of this Act.

Power to counterclaim for revocation in an action for infringement.

32. A defendant in an action for infringement of a patent, if entitled to present a petition to the court for the revocation of the patent, may, without presenting such a petition, apply in accordance with the rules of the Supreme Court by way of counterclaim in the action for the revocation of the patent.

Exemption of innocent infringer from liability for damages.

33. A patentee shall not be entitled to recover any damages in respect of any infringement of a patent granted after the commencement of this Act from any defendant who proves that at the date of

the infringement he was not aware, nor had reasonable means of making himself aware, of the existence of the patent, and the marking of an article with the word "patent," "patented," or any word or words expressing or implying that a patent has been obtained for the article, stamped, engraved, impressed on, or otherwise applied to the article, shall not be deemed to constitute notice of the existence of the patent unless the word or words are accompanied by the year and number of the patent: *Provided*, That nothing in this section shall affect any proceedings for an injunction.

Order for inspectum, etc., in action.

34. In an action for infringement of a patent the court may, on the application of either party, make such order for an injunction, inspection or account, and impose such terms and give such directions respecting the same and the proceedings thereon as the court may see fit.

Certificate of validity questioned and costs thereon.

35. In an action for infringement of a patent, the court may certify that the validity of the patent came in question; and, if the court so certifies, then in any subsequent action for infringement the plaintiff in that action on obtaining a final order or judgment in his favor shall, unless the court trying the action otherwise directs, have his full costs, charges, and expenses as between solicitor and client.

Remedy in case of groundless threats of legal proceedings.

36. Where any person claiming to be the patentee of an invention, by circulars, advertisements, or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring an action against him, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats: *Provided*, That this section shall not apply if the person making such threats with due diligence commences and prosecutes an action for infringement of his patent.

MISCELLANEOUS.

Grant of patents to two or more persons.

37. Where, after the commencement of this Act, a patent is granted to two or more persons jointly, they shall, unless otherwise specified

in the patent, be treated for the purpose of the devolution of the legal interest therein as joint tenants, but, subject to any contract to the contrary, each of such persons shall be entitled to use the invention for his own profit without accounting to the others, but shall not be entitled to grant a license without their consent, and, if any such person dies, his beneficial interest in the patent shall devolve on his personal representatives as part of his personal estate.

Avoidance of certain conditions attached to the sale, etc., of patented articles.

38. (1) It shall not be lawful in any contract made after the passing of this Act in relation to the sale or lease of, or license to use or work, any article or process protected by a patent to insert a condition the effect of which will be—

(a) To prohibit or restrict the purchaser, lessee, or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor, or licensor or his nominees; or

(b) To require the purchaser, lessee, or licensee to acquire from the seller, lessor, or licensor, or his nominees, any article or class of articles not protected by the patent;
and any such condition shall be null and void, as being in restraint of trade and contrary to public policy: *Provided*, That this subsection shall not apply if—

(i) The seller, lessor, or licensor proves that at the time the contract was entered into the purchaser, lessee, or licensee had the option of purchasing the article or obtaining a lease or license on reasonable terms, without such conditions as aforesaid; and

(ii) The contract entitles the purchaser, lessee, or licensee to relieve himself of his liability to observe any such condition on giving the other party three months' notice in writing and on payment in compensation for such relief in the case of a purchase of such sum, or in the case of a lease or license of such rent or royalty for the residue of the term of the contract, as may be fixed by an arbitrator appointed by the Board of Trade.

(2) Any contract relating to the lease of or license to use or work any patented article or patented process, whether made before or after the passing of this Act, may at any time after the patent or all the patents by which the article or process was protected at the time of the making of the contract has or have ceased to be in force, and notwithstanding anything in the same or in any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party; but where any such notice is given determining any contract made before the passing of this Act,

the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade.

(3) Any contract made before the passing of this Act relating to the lease of or license to use or work any patented article or process and containing any condition which, had the contract been made after the passing of this Act, would by virtue of this section have been null and void may, at any time before the contract is determinable under the last preceding subsection, and notwithstanding anything in the same or any other contract to the contrary, be determined by either party on giving three months' notice in writing to the other party, but where any such notice is given the party giving the notice shall be liable to pay such compensation as, failing agreement, may be awarded by an arbitrator appointed by the Board of Trade.

(4) The insertion by the patentee in a contract made after the passing of this Act of any condition which by virtue of this section is null and void shall be available as a defense to an action for infringement of the patent to which the contract relates brought while that contract is in force.

(5) Nothing in this section shall—

(a) Affect any condition in a contract whereby a person is prohibited from selling any goods other than those of a particular person; or

(b) Be construed as validating any contract which would, apart from this section, be invalid; or

(c) Affect any right of determining a contract or condition in a contract exercisable independently of this section; or

(d) Affect any condition in a contract for the lease of or license to use a patented article whereby the lessor or licensor reserves to himself or his nominees the right to supply such new parts of the patented article as may be required to put or keep it in repair.

Costs and security for costs.

39. (1) The comptroller shall, in proceedings relating to an opposition to the grant of a patent or to an application for the amendment of a specification or the revocation of a patent, have power by order to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may be made a rule of the court.

(2) If a party giving notice of opposition to the grant of a patent or to the amendment of a specification, or applying to the comptroller for the revocation of a patent, or giving notice of appeal from any decision of the comptroller, neither resides nor carries on business in the United Kingdom or the Isle of Man, the comptroller, or, in case

of appeal to the law officer, the law officer may require such party to give security for costs of the proceedings or appeal, and in default of such security being given may treat the proceedings or appeal as abandoned.

Procedure on appeal to law officer.

40. The law officer may examine witnesses on oath and administer oaths for that purpose, and may make rules regulating references and appeals to the law officer and the practice and procedure before him under this part of this Act; and in any proceeding before the law officer under this part of this Act the law officer may order costs to be paid by either party, and any such order may be made a rule of the court.

Provisions as to anticipation.

41. (1) An invention covered by any patent applied for on or after the 1st day of January, 1905, shall not be deemed to have been anticipated by reason only of its publication in a specification left pursuant to an application made in the United Kingdom not less than fifty years before the date of the application for the patent, or of its publication in a provisional specification of any date not followed by a complete specification.

(2) A patent shall not be held to be invalid by reason only of the invention in respect of which the patent was granted, or any part thereof, having been published prior to the date of the patent, if the patentee proves to the satisfaction of the court that the publication was made without his knowledge and consent, and that the matter published was derived or obtained from him, and, if he learned of the publication before the date of his application for the patent, that he applied for and obtained protection for his invention with all reasonable diligence after learning of the publication.

Disconformity.

42. A patent shall not be held to be invalid on the ground that the complete specification claims a further or different invention to that contained in the provisional, if the invention therein claimed, so far as it is not contained in the provisional, was novel at the date when the complete specification was put in, and the applicant was the first and true inventor thereof.

Patent on application of representative of deceased inventor.

43. (1) If the person claiming to be inventor of an invention dies without making an application for a patent for the invention, appli-

cation may be made by, and a patent for the invention granted to, his legal representative.

(2) Every such application must contain a declaration by the legal representative that he believes him to be the true and first inventor of the invention.

Loss or destruction of patent.

44. If a patent is lost or destroyed or its non-production is accounted for to the satisfaction of the comptroller, the comptroller may at any time seal a duplicate thereof.

Provisions as to exhibitions.

45. (1) The exhibition of an invention at an industrial or international exhibition, certified as such by the Board of Trade, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention during the period of the holding of the exhibition by any person elsewhere, without the privity or consent of the inventor, shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention or the validity of any patent granted on the application, provided that—

(a) The exhibitor, before exhibiting the invention, gives the comptroller the prescribed notice of his intention to do so; and

(b) The application for a patent is made before or within six months from the date of the opening of the exhibition.

(2) His Majesty may by Order in Council apply this section to any exhibition mentioned in the Order in like manner as if it were an industrial or international exhibition certified as such by the Board of Trade, and any such Order may provide that the exhibitor shall be relieved from the condition of giving notice to the comptroller of his intention to exhibit, and shall be so relieved either absolutely or upon such terms and conditions as may be stated in the Order.

Patent Museum.

46. (1) The comptroller shall issue periodically an illustrated journal of patented inventions, as well as reports of patent cases decided by courts of law, and any other information that he may deem generally useful or important.

(2) Provision shall be made by the comptroller for keeping on sale copies of such journal, and also of all complete specifications of patents in force, with any accompanying drawings.

(3) The comptroller shall continue, in such forms as he deems expedient, the indexes and abridgments of specifications hitherto pub-

lished, and shall prepare and publish such other indexes, abridgments of specifications, catalogues, and other works relating to inventions as he thinks fit.

Patent Museum.

47. (1) The control and management of the Patent Museum and its contents shall remain vested in the Board of Education, subject to such directions as His Majesty in Council may think fit to give.

(2) The Board of Education may at any time require a patentee to furnish them with a model of his invention on payment to the patentee of the cost of the manufacture of the model, the amount to be settled in case of dispute, by the Board of Trade.

Foreign vessels in British waters.

48. (1) A patent shall not prevent the use of an invention for the purposes of the navigation of a foreign vessel within the jurisdiction of any of His Majesty's courts in the United Kingdom, or Isle of Man, or the use of an invention in a foreign vessel within that jurisdiction, provided it is not used therein for or in connection with the manufacture or preparation of anything intended to be sold in or exported from the United Kingdom or Isle of Man.

(2) This section shall not extend to vessels of any foreign State of which the laws do not confer corresponding rights with respect to the use of inventions in British vessels while in the ports of that State or in the waters within the jurisdiction of its courts.

PART III.—GENERAL.

PATENT OFFICE AND PROCEEDINGS THEREAT.

Patent Office, 5 Edw. 7, c. 15.

62. (1) The treasury may continue to provide for the purposes of this Act and the Trade-Marks Act, 1905, an office with all requisite buildings and conveniences, which shall be called, and is in this Act referred to as, the Patent Office.

(2) The Patent Office shall be under the immediate control of the comptroller, who shall act under the superintendence and direction of the Board of Trade.

(3) Any act or thing directed to be done by or to the comptroller may be done by or to any officer authorized by the Board of Trade.

(4) Rules under this Act may provide for the establishment of branch offices for designs at Manchester or elsewhere, and for any document or thing required by this Act to be sent to or done at the

Patent Office being sent to or done at any branch office which may be established.

Officers and clerks.

63. (1) There shall continue to be a comptroller general of patents, designs, and trade-marks, and the Board of Trade may, subject to the approval of the treasury, appoint the comptroller, and so many examiners and other officers and clerks, with such designations and duties as the Board of Trade think fit, and may remove any of those officers and clerks.

(2) The salaries of those officers and clerks shall be appointed by the Board of Trade, with the concurrence of the treasury, and those salaries and the other expenses of the execution of this Act and the Trade-Marks Act, 1905, shall continue to be paid out of money provided by Parliament.

Seal of patent office.

64. Impressions of the seal of the Patent Office shall be judicially noticed and admitted in evidence.

FEES.

65. There shall be paid in respect of the grant of patents and the registration of designs and applications therefor, and in respect of other matters with relation to patents and designs under this Act, such fees as may be, with the sanction of the treasury, prescribed by the Board of Trade, so, however, that the fees prescribed in respect of the instruments and matters mentioned in the first schedule to this Act shall not exceed those specified in that schedule.

PROVISIONS AS TO REGISTERS AND OTHER DOCUMENTS IN PATENT OFFICE.

Trust not to be entered in registers.

66. There shall not be entered in any register kept under this Act, or be receivable by the comptroller, any notice of any trust expressed, implied, or constructive.

Inspection of and extracts from registers.

67. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act and to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any

such register shall be given to any person requiring the same on payment of the prescribed fee.

Privilege of reports of examiners.

68. Reports of examiners made under this Act shall not in any case be published or be open to public inspection, and shall not be liable to production or inspection in any legal proceeding unless the court or officer having power to order discovery in such legal proceeding certifies that such production or inspection is desirable in the interests of justice, and ought to be allowed.

Prohibition of publication of specification, drawings, etc., where application abandoned, etc.

69. (1) Where an application for a patent has been abandoned, or become void, the specifications and drawings (if any) accompanying or left in connection with such application, shall not, save as otherwise expressly provided by this Act, at any time be open to public inspection or be published by the comptroller.

* * * * *

Power for comptroller to correct clerical errors.

70. The comptroller may, on request in writing accompanied by the prescribed fee—

(a) Correct any clerical error in or in connection with an application for a patent or in any patent or any specification.

* * * * *

(c) Correct any clerical error in * * * the name or address of the proprietor of any patent * * * or in any other matter which is entered upon the register of patents. * * *

Entry of assignments and transmissions in registers.

71. (1) Where a person becomes entitled by assignment, transmission, or other operation of law to a patent * * * the comptroller shall, on request and on proof of title to his satisfaction, register him as the proprietor of a patent. * * *

(2) Where any person becomes entitled as mortgagee, licensee, or otherwise to any interest in a patent * * * the comptroller shall, on request and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents * * * as the case may be.

(3) The person registered as the proprietor of a patent * * * shall, subject to the provisions of this Act and to any rights appear-

ing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent * * * and to give effectual receipts for any consideration for any such assignment, license or dealing: *Provided*, That any equities in respect of the patent * * * may be enforced in like manner as in respect of any other personal property.

Rectification of registers by court.

72. (1) The court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of patents * * * of any entry, or by any entry made in either such register without sufficient cause, or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register, make such order for making, expunging, or varying such entry as it may think fit.

(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

(3) The prescribed notice of any application under this section shall be given to the comptroller, who shall have the right to appear and be heard thereon, and shall appear if so directed by the court.

(4) Any order of the court rectifying a register shall direct that notice of the rectification be served on the comptroller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly.

POWERS AND DUTIES OF COMPTROLLER.

Exercise of discretionary power by comptroller.

73. Where any discretionary power is by or under this Act given to the comptroller, he shall not exercise that power adversely to the applicant for a patent, or for amendment of a specification * * * without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard.

Power of comptroller to take directions of law officers.

74. The comptroller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to a law officer for directions in the matter.

Refusal to grant patent, etc., in certain cases.

75. The comptroller may refuse to grant a patent for an invention * * * of which the use would, in his opinion, be contrary to law or morality.

Annual reports of comptroller.

76. The comptroller shall, before the 1st day of June in every year, cause a report respecting the execution by or under him of this Act to be laid before both Houses of Parliament, and therein shall include for the year to which the report relates all general rules made in that year under or for the purposes of this Act, and on account of all fees, salaries, and allowances, and other money received and paid under this Act.

EVIDENCE, ETC.

Evidence before comptroller.

77. (1) Subject to rules under this Act in any proceeding under this Act before the comptroller the evidence shall be given by statutory declaration in the absence of directions to the contrary: but in any case in which the comptroller thinks it right so to do, he may take evidence *viva voce* in lieu of or in addition to evidence by declaration or allow any declarant to be cross-examined on his declaration. Any such statutory declaration may in the case of appeal be used before the court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit.

(2) In case any part of the evidence is taken *viva voce*, the comptroller shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as an official referee of the Supreme Court.

Certificate of comptroller to be evidence.

78. A certificate purporting to be under the hand of the comptroller as to any entry, matter, or thing which he is authorized by this Act, or any general rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Evidence of documents in Patent Office.

79. Printed or written copies or extracts, purporting to be certified by the comptroller and sealed with the seal of the Patent Office, of or from patents, specifications, and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in His Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Transmission of certified printed copies of specifications, etc.

80. (1) Copies of all specifications, drawings, and amendments left at the Patent Office after the commencement of this Act, printed for and sealed with the seal of the Patent Office, shall be transmitted to the Edinburgh Museum of Science and Art, and to the Enrollments Office of the Chancery Division in Ireland, and to the Rolls Office in the Isle of Man, within twenty-one days after they have been accepted or allowed at the Patent Office.

(2) Certified copies of or extracts from any such documents and of any documents so transmitted in pursuance of any enactment repealed by this Act shall be given to any person on payment of the prescribed fee; and any such copy or extract shall be admitted in evidence in all courts in Scotland and Ireland and in the Isle of Man without further proof or production of the originals.

Applications and notices by post.

81. Any application, notice, or other document authorized or required to be left, made, or given at the Patent Office or to the comptroller, or to any other person under this Act, may be sent by post.

Excluded days.

82. Where the last day fixed by this Act for doing anything under this Act falls on any day specified in rules under this Act as an excluded day, the rules may provide for the thing being done on the next following day not being an excluded day.

Declaration by infant, lunatic, etc.

83. (1) If any person is, by reason of infancy, lunacy, or other disability, incapable of making any declaration or doing anything required or permitted by or under this Act, the guardian or committee (if any) of the person subject to the disability, or, if there be none, any person appointed by any court possessing jurisdiction in respect of his property, may make such declaration or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.

(2) An appointment may be made by the court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the declaration or the doing of the thing.

REGISTER OF PATENT AGENTS.

84. (1) A person shall not be entitled to describe himself as a patent agent, whether by advertisement, by description on his place of business, by any document issued by him, or otherwise, unless he is registered as a patent agent in pursuance of this Act, or an Act repealed by this Act.

(2) Every person who proves to the satisfaction of the Board of Trade that prior to the 24th day of December, 1888, he had been *bona fide* practicing as a patent agent shall be entitled to be registered as a patent agent in pursuance of this Act.

(3) If any person knowingly describes himself as a patent agent in contravention of this section, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding £20.

(4) In this section "patent agent" means exclusively an agent for obtaining patents in the United Kingdom.

Agents for patents.

85. (1) Rules under this Act may authorize the comptroller to refuse to recognize as agent in respect of any business under this Act any person whose name has been erased from the register of patent agents or who is proved to the satisfaction of the Board of Trade, after being given an opportunity of being heard, to have been convicted of such an offense or to have been guilty of such misconduct as would have rendered him liable, if his name had been on the register of patent agents, to have his name erased therefrom, and may authorize the comptroller to refuse to recognize as agent in respect of any business under this Act any company which, if it had been an individual, the comptroller could refuse to recognize as such agent.

(2) Where a company or firm acts as agents, such rules as aforesaid may authorize the comptroller to refuse to recognize the company or firm as agent if any person whom the comptroller could refuse to recognize as an agent acts as director or manager of the company or is a partner in the firm.

(3) The comptroller shall refuse to recognize as agent in respect of any business under this Act any person who neither resides nor has a place of business in the United Kingdom or the Isle of Man.

POWERS, ETC., OF BOARD OF TRADE.

Power for Board of Trade to make general rules.

86. (1) The Board of Trade may make such general rules and do such things as they think expedient, subject to the provisions of this Act—

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(c) For making or requiring duplicates of specifications, drawings, and other documents.

(d) For securing and regulating the publishing and selling of copies, at such prices and in such manner as the Board of Trade think fit, of specifications, drawings, and other documents.

(e) For securing and regulating the making, printing, publishing, and selling of indexes to and abridgments of specifications and other documents in the Patent Office, and providing for the inspection of indexes and abridgments and other documents.

(f) For regulating (with the approval of the treasury) the presentation of copies of Patent Office publications to patentees and to public authorities, bodies, and institutions at home and abroad.

(g) For regulating the keeping of the register of patent agents under this Act.

(h) Generally for regulating the business of the Patent Office and all things by this Act placed under the direction or control of the comptroller or of the Board of Trade.

(2) General rules shall, while in force, be of the same effect as if they were contained in this Act.

(3) Any rules made in pursuance of this section shall be advertised twice in the official journal to be issued by the comptroller, and shall be laid before both Houses of Parliament as soon as practicable after they are made, and if either House of Parliament, within the next forty days after any rules have been so laid before that House, resolves that the rules, or any of them, ought to be annulled, the rules, or those to which the resolution applies, shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under the rules or to the making of any new rules.

Proceedings of the Board of Trade.

87. (1) All things required or authorized under this Act to be done by, to, or before the Board of Trade may be done by, to, or before the president or a secretary or an assistant secretary of the Board.

(2) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorized in that behalf by the President of the Board, shall be received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

(3) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

Provision as to Order in Council.

88. An Order in Council under this Act shall, from a date to be mentioned for the purpose in the Order, take effect as if it had been contained in this Act; but may be revoked or varied by a subsequent Order.

OFFENSES.

89. (1) If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

(2) If any person falsely represents that any article sold by him is a patented article * * * he shall be liable for every offense, on conviction under the Summary Jurisdiction Acts, to a fine not exceeding £5.

(3) If any person sells an article having stamped, engraved, or impressed thereon or otherwise applied thereto the word "patent," "patented," * * * or any other word expressing or implying that the article is patented * * * he shall be deemed for the purposes of this section to represent that the article is a patented article.

* * * * *

(5) If any person uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office," or any other words suggesting that his place of business is officially connected with, or is, the Patent Office, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding £20.

Unauthorized assumption of royal arms.

90. (1) The grant of a patent under this Act shall not be deemed to authorize the patentee to use the royal arms or to place the royal arms on any patented article.

(2) If any person, without the authority of His Majesty, uses in connection with any business, trade, calling, or profession the royal arms (or arms so nearly resembling them as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorized to use the royal arms, he shall be liable on conviction under the Summary Jurisdiction Acts to a fine not exceeding £20: *Provided*, That nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade-mark containing such arms to continue to use such trade-mark.

International and colonial arrangements.

91. (1) If His Majesty is pleased to make any arrangement with the Government of any foreign State for mutual protection of inventions * * * then any person who has applied for protection for any invention * * * in that State shall be entitled to a patent for his invention * * * under this Act * * * in priority to other applicants; and the patent * * * shall have the same date as the date of the application in the foreign State: *Provided*, That—

(a) The application is made * * * within twelve months * * * from the application for protection in the foreign State; and

(b) Nothing in this section shall entitle the patentee * * * to recover damages for infringements happening prior to the actual date on which his complete specification is accepted * * *.

(2) The patent granted for the invention * * * shall not be invalidated—

(a) In the case of a patent, by reason only of the publication of a description of, or use of, the invention; * * * in the United Kingdom or the Isle of Man during the period specified in this section as that within which the application may be made.

(3) The application for the grant of a patent * * * under this section must be made in the same manner as an ordinary application under this Act * * *: *Provided*, That—

(a) * * * The application shall be accompanied by a complete specification, which, if it is not accepted within the twelve months from the application for protection in the foreign State, shall with the drawings (if any) be open to public inspection at the expiration of that period.

* * * * *

(4) The provisions of this section shall apply only in the case of those foreign States with respect to which His Majesty by Order in Council declares them to be applicable, and so long only in the case of each State as the Order in Council continues in force with respect to that State.

(5) Where it is made to appear to His Majesty that the legislature of any British possession has made satisfactory provision for the protection of inventions * * * patented * * * in this country, it shall be lawful for His Majesty, by Order in Council, to apply the provisions of this section to that possession, with such variations or additions, if any, as may be stated in the Order.

DEFINITIONS.

Provisions as to "the court."

92. (1) In this Act, unless the context otherwise requires, "the court" means, subject to the provisions as to Scotland, Ireland, and the Isle of Man, the High Court in England.

(2) Where by virtue of this Act a decision of the comptroller is subject to an appeal to the court, or a petition may be referred or presented to the court, the appeal shall, subject to and in accordance with rules of the Supreme Court, be made and the petition referred or presented to such judge of the High Court as the Lord Chancellor may select for the purpose, and the decision of that judge shall be final, except in the case of an appeal from a decision of the comptroller revoking a patent on any ground on which the grant of such patent might have been opposed.

The Patents and Designs Act, 1908, section 1.

It is hereby declared that so much of subsection (2) of section 92 of the Patents and Designs Act, 1907, as provides that the decision of a judge of the High Court to whom a petition is presented by virtue of that Act is to be final does not apply in the case of a petition for the revocation of a patent under section 25 of that Act.

Definitions.

93. In this Act, unless the context otherwise requires—

“Law officer” means the attorney general or solicitor general for England.

“Prescribed” means prescribed by general rules under this Act.

“British possession” does not include the Isle of Man or the Channel Islands.

“Patent” means letters patent for an invention.

“Patentee” means the person for the time being entitled to the benefit of a patent.

“Invention” means any manner of new manufacture the subject of letters patent and grant of privilege within section 26 of the Statute of Monopolies (that is, the Act of the twenty-first year of the reign of King James the First, chap. 3, entitled “An Act concerning monopolies and dispensations with penal laws and the forfeiture thereof”) and includes an alleged invention.

“Inventor” and “applicant” shall, subject to the provisions of this Act, include the legal representative of a deceased inventor or applicant.

* * * * *

APPLICATION TO SCOTLAND, IRELAND, AND THE ISLE OF MAN.

Application to Scotland.

94. In the application of this Act to Scotland—

(1) In any action for infringement of a patent in Scotland the provisions of this Act with respect to calling in the aid of an assessor

shall apply, and the action shall be tried without a jury, unless the court otherwise direct, but otherwise nothing shall affect the jurisdiction and forms of process of the courts in Scotland in such an action or in any action or proceeding respecting a patent hitherto competent to those courts; and for the purposes of the provisions so applied "court of appeal" shall mean any court to which such action is appealed.

(2) Any offense under this Act declared to be punishable on conviction under the Summary Jurisdiction Acts may be prosecuted in the sheriff court.

(3) Proceedings for revocation of a patent shall be in the form of an action of reduction at the instance of the Lord Advocate, or at the instance of a party having interest with his concurrence, which concurrence may be given on just cause shown only, and service of all writs and summonses in that action shall be made according to the forms and practice existing at the commencement of this Act.

(4) The provisions of this Act conferring a special jurisdiction on the court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland in any proceedings relating to patents * * * and with reference to any such proceedings the term "the court" shall mean any Lord Ordinary of the court of session, and the term "court of appeal" shall mean either division of that court.

(5) Notwithstanding anything in this Act, the expression "the court" shall, as respects petitions for compulsory licenses or revocation which are referred by the Board of Trade to the court in Scotland, mean any Lord Ordinary of the Court of Session, and shall in reference to proceedings in Scotland for the extension of the time of a patent mean such Lord Ordinary.

(6) The expression "rules of the supreme court" shall, except in section 92 of this Act, mean act of sederunt.

(7) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly.

(8) The expression "injunction" means "interdict."

Application to Ireland.

95. In the application of this Act to Ireland—

(1) All parties shall, notwithstanding anything in this Act, have in Ireland their remedies under or in respect of a patent as if the same had been granted to extend to Ireland only.

(2) The provisions of this Act conferring a special jurisdiction on the court, as defined by this Act, shall not, except so far as the juris-

diction extends. affect the jurisdiction of any court in Ireland in any proceedings relating to patents * * * and with reference to any such proceedings the term "the court" means the High Court in Ireland.

(3) If any rectification of a register under this Act is required in pursuance of any proceeding in a court, a copy of the order, decree, or other authority for the rectification shall be served on the comptroller, and he shall rectify the register accordingly.

Isle of Man

96. This Act shall extend to the Isle of Man, subject to the following modifications:

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement, or in any action or proceeding respecting a patent * * * competent to those courts.

(2) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labor, and with or without a fine not exceeding £100, at the discretion of the court.

(3) Any offense under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered, at the instance of any person aggrieved, in the manner in which offenses punishable on summary conviction may for the time being be prosecuted.

REPEAL, SAVINGS, AND SHORT TITLE.

Saving for prerogative.

97. Nothing in this Act shall take away, abridge, or prejudicially affect the prerogative of the Crown in relation to the granting of any letters patent or to the withholding of a grant thereof.

Repeal and savings.

98. (1) The enactments mentioned in the second schedule to this Act are hereby repealed to the extent specified in the third column of that schedule—

(a) As respects the enactments mentioned in Part I of that schedule, as from the commencement of this Act—

(b) As respects the enactments mentioned in Part II of that schedule, as from the date when rules of the Supreme Court regulating the matters dealt with in those enactments come into operation.

* * * * *

[NOTE.—The rules of the supreme court were published on the 3d of June, 1908.]

and the enactments mentioned in Part II * * * of that schedule shall, until so repealed, have effect as if they formed part of this Act: *Provided*, That this repeal shall not affect any convention, order in council, rule, or table of fees having effect under any enactment so repealed, but any such convention, order in council, rule, or table of fees in force at the commencement of this Act shall continue in force, and may be repealed, altered, or amended as if it had been made under this Act.

(2) Except where otherwise expressly provided, this Act shall extend to all patents granted * * * before the commencement of this Act, and to applications then pending, in substitution for such enactments as would have applied thereto if this Act had not been passed.

Short title and commencement.

99. This Act may be cited as the Patents and Designs Act, 1907, and shall, save as otherwise expressly provided, come into operation on the 1st day of January, 1908.

8 Edw. 7, ch. 4, sec. 2.

This Act may be cited as the Patents and Designs Act, 1908 (see sec. 92, *supra*).

GREAT BRITAIN.

[5 EDW. 7.] TRADE-MARKS ACT, 1905.

CHAPTER 15.—An Act to consolidate and amend the law relating to trade-marks. [11th August, 1905.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the trade-marks act, 1905.

Commencement of act.

2. This Act shall, save as otherwise expressly provided, come into operation on the 1st day of April, 1906.

PART I.

Definitions.

3. In and for the purposes of this Act (unless the context otherwise requires)—

A "mark" shall include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, or any combination thereof.

A "trade-mark" shall mean a mark used or proposed to be used upon or in connection with goods for the purpose of indicating that they are the goods of the proprietor of such trade-mark by virtue of manufacture, selection, certification, dealing with, or offering for sale.

A "registrable trade-mark" shall mean a trade-mark which is capable of registration under the provisions of this Act.

"The register" shall mean the register of trade-marks kept under the provisions of this Act.

A "registered trade-mark" shall mean a trade-mark which is actually upon the register.

"Prescribed" shall mean, in relation to proceedings before the court, prescribed by rules of court, and in other cases, prescribed by this Act or the rules thereunder.

"The court" shall mean (subject to the provisions for Scotland, Ireland, and the Isle of Man) His Majesty's High Court of Justice in England.

Register of trade-marks.

4. There shall be kept at the Patent Office for the purposes of this Act a book called the register of trade-marks, wherein shall be entered all registered trade-marks with the names and addresses of their proprietors, notifications of assignments and transmissions, disclaimers, conditions, limitations, and such other matters relating to such trade-marks as may from time to time be prescribed. The register shall be kept under the control and management of the comptroller general of patents, designs, and trade-marks, who is in this Act referred to as the registrar.

Trust not to be entered on register.

5. There shall not be entered in the register any notice of any trust expressed, implied, or constructive, nor shall any such notice be receivable by the registrar.

Incorporation of existing register.

6. The register of trade-marks existing at the date of the commencement of this Act, and all registers of trade-marks kept under previous acts, which are deemed part of the same book as such register, shall be incorporated with and form part of the register. Subject to the provisions of sections 36 and 41 of this Act the validity of the original entry of any trade-mark upon the registers so incorporated shall be determined in accordance with the statutes in force at the date of such entry, and such trade-mark shall retain its original date, but for all other purposes it shall be deemed to be a trade-mark registered under this Act.

Inspection of and extract from register.

7. The register kept under this Act shall at all convenient times be open to the inspection of the public, subject to such regulations as may be prescribed; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee.

REGISTRABLE TRADE-MARKS.

Trade-mark must be for particular goods.

8. A trade-mark must be registered in respect of particular goods or classes of goods.

Registrable trade-marks.

9. A registrable trade-mark must contain or consist of at least one of the following essential particulars:

(1) The name of a company, individual, or firm represented in a special or particular manner.

(2) The signature of the applicant for registration or some predecessor in his business.

(3) An invented word or invented words.

(4) A word or words having no direct reference to the character or quality of the goods, and not being according to its ordinary signification a geographical name or a surname.

(5) Any other distinctive mark, but a name, signature, or word or words, other than such as fall within the descriptions in the above paragraphs (1), (2), (3), and (4), shall not, except by order of the Board of Trade or the court, be deemed a distinctive mark:

Provided always that any special or distinctive word or words, letter, numeral, or combination of letters or numerals used as a trade-mark by the applicant or his predecessors in business before the 13th day of August, 1875, which has continued to be used (either in its original form or with additions or alterations not substantially affecting the identity of the same) down to the date of the application for registration shall be registrable as a trade-mark under this Act.

For the purposes of this section "distinctive" shall mean adapted to distinguish the goods of the proprietor of the trade-mark from those of other persons.

In determining whether a trade-mark is so adapted, the tribunal may, in the case of a trade-mark in actual use, take into consideration the extent to which such user has rendered such trade-mark in fact distinctive for the goods with respect to which it is registered or proposed to be registered.

Colored trade-marks.

10. A trade-mark may be limited in whole or in part to one or more specified colors, and in such case the fact that it is so limited shall be taken into consideration by any tribunal having to decide on the distinctive character of such trade-mark. If and so far as a trade-mark is registered without limitation of color it shall be deemed to be registered for all colors.

Restriction on registration.

11. It shall not be lawful to register as a trade-mark or part of a trade-mark any matter, the use of which would by reason of its being calculated to deceive or otherwise be disentitled to protection in a court of justice, or would be contrary to law or morality, or any scandalous design.

REGISTRATION OF TRADE-MARKS.

Application for registration.

12. (1) Any person claiming to be the proprietor of a trade-mark who is desirous of registering the same must apply in writing to the registrar in the prescribed manner.

(2) Subject to the provisions of this Act the register may refuse such application, or may accept it absolutely or subject to conditions, amendments, or modifications.

(3) In case of any such refusal or conditional acceptance the registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving at the same, and such decision shall be subject to appeal to the Board of Trade or to the court at the option of the applicant.

(4) An appeal under this section shall be made in the prescribed manner, and on such appeal the Board of Trade or the court, as the case may be, shall, if required, hear the applicant and the registrar, and shall make an order determining whether, and subject to what conditions, amendments, or modifications, if any, the application is to be accepted.

(5) Appeals under this section shall be heard on the materials so stated by the registrar to have been used by him in arriving at his decision, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the registrar, other than those stated by him, except by leave of the tribunal hearing the appeal. Where any further grounds of objection are taken the applicant shall be entitled to withdraw his application without payment of costs on giving notice as prescribed.

(6) The registrar or the Board of Trade or the court, as the case may be, may at any time, whether before or after acceptance, correct any error in or in connection with the application, or may permit the applicant to amend his application upon such terms as they may think fit.

Advertisement of application.

13. When an application for registration of a trade-mark has been accepted, whether absolutely or subject to conditions, the registrar shall, as soon as may be after such acceptance, cause the application as accepted to be advertised in the prescribed manner. Such advertisement shall set forth all conditions subject to which the application has been accepted.

Opposition to registration.

14. (1) Any person may, within the prescribed time from the date of the advertisement of an application for the registration of a trade-mark, give notice to the registrar of opposition to such registration.

(2) Such notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

(3) The registrar shall send a copy of such notice to the applicant, and within the prescribed time after the receipt of such notice, the applicant shall send to the registrar, in the prescribed manner, a counterstatement of the grounds on which he relies for his application, and, if he does not do so, he shall be deemed to have abandoned his application.

(4) If the applicant sends such counterstatement, the registrar shall furnish a copy thereof to the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions, registration is to be permitted.

(5) The decision of the registrar shall be subject to appeal to the court or, with the consent of the parties, to the Board of Trade.

(6) An appeal under this section shall be made in the prescribed manner, and on such appeal the Board of Trade or the court, as the case may be, shall, if required, hear the parties and the registrar, and shall make an order determining whether, and subject to what conditions, if any, registration is to be permitted.

(7) On the hearing of any such appeal any party may either in the manner prescribed or by special leave of the tribunal bring forward further material for the consideration of the tribunal.

(8) In proceedings under this section no further grounds of objection to the registration of a trade-mark shall be allowed to be taken by the opponent or the registrar other than those stated by

the opponent as herein above provided except by leave of the tribunal hearing the appeal. Where any further grounds of objection are taken the applicant shall be entitled to withdraw his application without payment of the costs of the opponent on giving notice as prescribed.

(9) In any appeal under this section, the tribunal may, after hearing the registrar, permit the trade-mark proposed to be registered to be modified in any manner not substantially affecting the identity of such trade-mark, but in such case the trade-mark as so modified shall be advertised in the prescribed manner before being registered.

(10) The registrar, or, in the case of an appeal to the Board of Trade, the Board of Trade shall have power in proceedings under this section to award to any party such costs as they may consider reasonable, and to direct how and by what parties they are to be paid.

(11) If a party giving notice of opposition or of appeal neither resides nor carries on business in the United Kingdom, the tribunal may require such party to give security for costs of the proceedings before it relative to such opposition or appeal, and in default of such security being duly given may treat the opposition or appeal as abandoned.

Disclaimers.

15. If a trade-mark contains parts not separately registered by the proprietor as trade-marks, or if it contains matter common to the trade or otherwise of a nondistinctive character, the registrar or the board of trade or the court, in deciding whether such trade-mark shall be entered or shall remain upon the register, may require, as a condition of its being upon the register, that the proprietor shall disclaim any right to the exclusive use of any part or parts of such trade-mark, or of all or any portion of such matter, to the exclusive use of which they hold him not to be entitled, or that he shall make such other disclaimer as they may consider needful for the purpose of defining his rights under such registration, provided always that no disclaimer upon the register shall affect any rights of the proprietor of a trade-mark except such as arise out of the registration of the trade-mark in respect of which the disclaimer is made.

Date of registration.

16. When an application for registration of a trade-mark has been accepted and has not been opposed, and the time for notice of opposition has expired, or having been opposed the opposition has been decided in favor of the applicant, the registrar shall, unless the board of trade otherwise direct, register the said trade-mark, and

the trade-mark, when registered, shall be registered as of the date of the application for registration, and such date shall be deemed for the purposes of this Act to be the date of registration.

Certificate of registration.

17. On the registration of a trade-mark the registrar shall issue to the applicant a certificate in the prescribed form of the registration of such trade-mark under the hand of the registrar and sealed with the seal of the Patent Office.

Noncompletion of registration.

18. Where registration of a trade-mark is not completed within 12 months from the date of the application by reason of default on the part of the applicant, the registrar may, after giving notice of the noncompletion to the applicant in writing in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in such notice.

IDENTICAL TRADE-MARKS.

Identical marks.

19. Except by order of the court or in the case of trade-marks in use before the 13th day of August, 1875, no trade-mark shall be registered in respect of any goods or description of goods which is identical with one belonging to a different proprietor which is already on the register with respect to such goods or description of goods, or so nearly resembling such a trade-mark as to be calculated to deceive.

Rival claims to identical marks.

20. Where each of several persons claims to be proprietor of the same trade-mark, or nearly identical trade-marks in respect of the same goods or description of goods, and to be registered as such proprietor, the registrar may refuse to register any of them until their rights have been determined by the court, or have been settled by agreement in a manner approved by him or (on appeal) by the Board of Trade.

Concurrent user.

21. In case of honest concurrent user or of other special circumstances which, in the opinion of the court, make it proper so to do, the court may permit the registration of the same trade-mark, or of

nearly identical trade-marks, for the same goods or description of goods by more than one proprietor subject to such conditions and limitations, if any, as to mode or place of user or otherwise, as it may think it right to impose.

ASSIGNMENT.

Assignment and transmission of trade-marks.

22. A trade-mark when registered shall be assigned and transmitted only in connection with the good will of the business concerned in the goods for which it has been registered and shall be determinable with that good will. But nothing in this section contained shall be deemed to affect the right of the proprietor of a registered trade-mark to assign the right to use the same in any British possession or protectorate or foreign country in connection with any goods for which it is registered, together with the good will of the business therein in such goods.

Apportionment of marks on dissolution of partnership.

23. In any case where from any cause, whether by reason of dissolution of partnership or otherwise, a person ceases to carry on business, and the good will of such person does not pass to one successor but is divided, the registrar may (subject to the provisions of this act as to associated trade-marks), on the application of the parties interested, permit an apportionment of the registered trade-marks of the person among the persons in fact continuing the business, subject to such conditions and modifications, if any, as he may think necessary in the public interest. Any decision of the registrar under this section shall be subject to appeal to the Board of Trade.

Associated trade-marks.

24. If application be made for the registration of a trade-mark so closely resembling a trade-mark of the applicant already on the register for the same goods or description of goods as to be calculated to deceive or cause confusion if used by a person other than the applicant, the tribunal hearing the application may require as a condition of registration that such trade-marks shall be entered on the register as associated trade-marks.

Combined trade-marks.

25. If the proprietor of a trade-mark claims to be entitled to the exclusive use of any portion of such trade-mark separately he may

apply to register the same as separate trade-marks. Each such separate trade-mark must satisfy all the conditions and shall have all the incidents of an independent trade-mark, except that when registered it and the trade mark of which it forms a part shall be deemed to be associated trade-marks and shall be entered on the register as such, but the user of the whole trade-mark shall for the purposes of this act be deemed to be also a user of such registered trade marks belonging to the same proprietor as it contains.

Series of trade-marks.

26. When a person claiming to be the proprietor of several trade-marks for the same description of goods which, while resembling each other in the material particulars thereof, yet differ in respect of—

(a) Statements of the goods for which they are respectively used or proposed to be used; or

(b) Statements of number, price, quality, or names of places; or

(c) Other matter of a nondistinctive character which does not substantially affect the identity of the trade-mark; or

(d) Color;

seeks to register such trade-marks, they may be registered as a series in one registration. All the trade-marks in a series of trade-marks so registered shall be deemed to be, and shall be registered as, associated trade-marks.

Assignments and user of associated trade-marks.

27. Associated trade-marks shall be assignable or transmissible only as a whole and not separately, but they shall for all other purposes be deemed to have been registered as separate trade-marks. Provided that where under the provisions of this Act user of a registered trade-mark is required to be proved for any purpose, the tribunal may if and so far as it shall think right accept user of an associated registered trade-mark, or of the trade-mark with additions or alterations not substantially affecting its identity as an equivalent for such user.

RENEWAL OF REGISTRATION.

Duration of registration.

28. The registration of a trade-mark shall be for a period of 14 years, but may be renewed from time to time in accordance with the provisions of this Act.

Renewal of registration.

29. The registrar shall, on application made by the registered proprietor of a trade-mark in the prescribed manner and within the prescribed period, renew the registration of such trade-mark for a period of 14 years from the expiration of the original registration or of the last renewal of registration, as the case may be, which date is herein termed "the expiration of the last registration."

Procedure on expiry of period of registration.

30. At the prescribed time before the expiration of the last registration of a trade-mark, the registrar shall send notice in the prescribed manner to the registered proprietor at his registered address of the date at which the existing registration will expire and the conditions as to payment of fees and otherwise upon which a renewal of such registration may be obtained, and if at the expiration of the time prescribed in that behalf such conditions have not been duly complied with, the registrar may remove such trade-mark from the register, subject to such conditions (if any) as to its restoration to the register as may be prescribed.

Status of unrenewed trade-mark.

31. Where a trade-mark has been removed from the register for nonpayment of the fee for renewal, such trade-mark shall, nevertheless, for the purpose of any application for registration during one year next after the date of such removal, be deemed to be a trade-mark which is already registered, unless it is shown to the satisfaction of the registrar that there had been no *bona fide* trade user of such trade-mark during the two years immediately preceding such removal.

CORRECTION AND RECTIFICATION OF THE REGISTER.

Correction of register.

32. The registrar may, on request made in the prescribed manner by the registered proprietor or by some person entitled by law to act in his name—

(1) Correct any error in the name or address of the registered proprietor of a trade-mark; or

(2) Enter any change in the name or address of the person who is registered as proprietor of a trade-mark; or

(3) Cancel the entry of a trade-mark on the register; or

(4) Strike out any goods or classes of goods from those for which a trade-mark is registered; or

(5) Enter a disclaimer or memorandum relating to a trade-mark which does not in any way extend the rights given by the existing registration of such trade-mark.

Any decision of the registrar under this section shall be subject to appeal to the Board of Trade.

Registration of assignments, etc.

33. Subject to the provisions of this Act where a person becomes entitled to a registered trade-mark by assignment, transmission, or other operation of law, the registrar shall, on request made in the prescribed manner, and on proof of title to his satisfaction, cause the name and address of such person to be entered on the register as proprietor of the trade-mark. Any decision of the registrar under this section shall be subject to appeal to the court or, with the consent of the parties, to the Board of Trade.

Alteration of registered trade-mark.

34. The registered proprietor of any trade-mark may apply in the prescribed manner to the registrar for leave to add to or alter such trade-mark in any manner not substantially affecting the identity of the same, and the registrar may refuse such leave or may grant the same on such terms as he may think fit, but any such refusal or conditional permission shall be subject to appeal to the Board of Trade. If leave be granted, the trade-mark as altered shall be advertised in the prescribed manner.

Rectification of register.

35. Subject to the provisions of this Act—

(1) The court may on the application in the prescribed manner of any person aggrieved by the noninsertion in or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, make such order for making, expunging, or varying such entry, as it may think fit.

(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.

(3) In case of fraud in the registration or transmission of a registered trade-mark, the registrar may himself apply to the court under the provisions of this section.

(4) Any order of the court rectifying the register shall direct that notice of the rectification shall be served upon the registrar in the

prescribed manner who shall upon receipt of such notice rectify the register accordingly.

Trade-marks registered under previous acts.

36. No trade-mark which is upon the register at the commencement of this Act, and which under this Act is a registrable trade-mark, shall be removed from the register on the ground that it was not registrable under the acts in force at the date of its registration. But nothing in this section contained shall subject any person to any liability in respect of any act or thing done before the commencement of this Act to which he would not have been subject under the acts then in force.

Nonuser of trade-mark.

37. A registered trade-mark may, on the application to the court of any person aggrieved, be taken off the register in respect of any of the goods for which it is registered, on the ground that it was registered by the proprietor or a predecessor in title without any bona fide intention to use the same in connection with such goods, and there has in fact been no *bona fide* user of the same in connection therewith, or on the ground that there has been no *bona fide* user of such trade-mark in connection with such goods during the five years immediately preceding the application, unless in either case such nonuser is shown to be due to special circumstances in the trade, and not to any intention not to use or to abandon such trade-mark in respect of such goods.

EFFECT OF REGISTRATION.

Powers of registered proprietor.

38. Subject to the provisions of this Act—

(1) The person for the time being entered in the register as proprietor of a trade-mark shall, subject to any rights appearing from such register to be vested in any other person, have power to assign the same, and to give effectual receipts for any consideration for such assignment.

(2) Any equities in respect of a trade-mark may be enforced in like manner as in respect of any other personal property.

Rights of proprietor of trade-mark.

39. Subject to the provisions of section 41, of this Act and to any limitations and conditions entered upon the register, the registration of a person as proprietor of a trade-mark shall, if valid, give to such person the exclusive right to the use of such trade-mark upon or in

connection with the goods in respect of which it is registered, provided always that where two or more persons are registered proprietors of the same (or substantially the same) trade-mark in respect of the same goods no rights of exclusive user of such trade-mark shall (except so far as their respective rights shall have been defined by the court) be acquired by any one of such persons as against any other by the registration thereof, but each of such persons shall otherwise have the same rights as if he were the sole registered proprietor thereof.

Registration to be prima facie evidence of validity.

40. In all legal proceedings relating to a registered trade-mark (including applications under section 35 of this Act) the fact that a person is registered as proprietor of such trade-mark shall be prima facie evidence of the validity of the original registration of such trade-mark and of all subsequent assignments and transmissions of the same.

Registration to be conclusive after seven years.

41. In all legal proceedings relating to a registered trade-mark (including applications under section 35 of this Act) the original registration of such trade-mark shall after the expiration of seven years from the date of such original registration (or seven years from the passing of this Act, whichever shall last happen) be taken to be valid in all respects unless such original registration was obtained by fraud, or unless the trade-mark offends against the provisions of section 11 of this Act: *Provided*, That nothing in this Act shall entitle the proprietor of a registered trade-mark to interfere with or restrain the user by any person of a similar trade-mark upon or in connection with goods upon or in connection with which such person has, by himself or his predecessors in business, continuously used such trade-mark from a date anterior to the user of the first-mentioned trade-mark by the proprietor thereof or his predecessors in business, or to object (on such user being proved) to such person being put upon the register for such similar trade-mark in respect of such goods under the provisions of section 21 of this Act.

Unregistered trade-mark.

42. No person shall be entitled to institute any proceeding to prevent or to recover damages for the infringement of an unregistered trade-mark unless such trade-mark was in use before the 13th of August, 1875, and has been refused registration under this Act. The register for such similar trade-mark in respect of such goods under has been refused.

Infringement.

43. In an action for the infringement of a trade-mark the court trying the question of infringement shall admit evidence of the usages of the trade in respect to the get-up of the goods for which the trade-mark is registered, and of any trade-marks or get-up legitimately used in connection with such goods by other persons.

User of name, address, or description of goods.

44. No registration under this Act shall interfere with any *bona fide* use by a person of his own name or place of business or that of any of his predecessors in business, or the use by any person of any *bona fide* description of the character or quality of his goods.

"Passing-off" action.

45. Nothing in this Act contained shall be deemed to affect rights of action against any person for passing off goods as those of another person or the remedies in respect thereof.

LEGAL PROCEEDINGS.

Certificate of validity.

46. In any legal proceeding in which the validity of the registration of a registered trade-mark comes into question and is decided in favor of the proprietor of such trade-mark, the court may certify the same, and if it so certifies then in any subsequent legal proceeding in which such validity comes into question the proprietor of the said trade-mark on obtaining a final order or judgment in his favor shall have his full costs, charges, and expenses as between solicitor and client, unless in such subsequent proceeding the court certifies that he ought not to have the same.

Registrar to have notice of proceeding for rectification.

47. In any legal proceeding in which the relief sought includes alteration or rectification of the register, the registrar shall have the right to appear and be heard, and shall appear if so directed by the court. Unless otherwise directed by the court, the registrar in lieu of appearing and being heard may submit to the court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting the same or of the practice of the office in like cases, or of such other matters relevant to the issues, and within his knowledge as such registrar, as he shall think fit, and such statement shall be deemed to form part of the evidence in the proceeding.

COSTS.

Costs of proceedings before the court.

48. In all proceedings before the court under this Act the costs of the registrar shall be in the discretion of the court, but the registrar shall not be ordered to pay the costs of any other of the parties.

EVIDENCE.

Mode of giving evidence.

49. In any proceeding under this Act before the Board of Trade or the registrar, the evidence shall be given by statutory declaration in the absence of directions to the contrary, but, in any case in which it shall think it right so to do, the tribunal may (with the consent of the parties) take evidence *viva voce* in lieu of or in addition to evidence by declaration. Any such statutory declaration may in the case of appeal be used before the court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit.

In case any part of the evidence is taken *viva voce* the Board of Trade or the registrar shall in respect of requiring the attendance of witnesses and taking evidence on oath be in the same position in all respects as an official referee of the supreme court.

Sealed copies to be evidence.

50. Printed or written copies or extracts of or from the register, purporting to be certified by the registrar and sealed with the seal of the Patent Office, shall be admitted in evidence in all courts in His Majesty's dominions, and in all proceedings, without further proof or production of the originals.

Certificate of registrar to be evidence.

51. A certificate purporting to be under the hand of the registrar as to any entry, matter, or thing which he is authorized by this Act, or rules made thereunder, to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or not done.

Certificate of board of trade to be evidence.

52. (1) All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or by any person authorized in that behalf by the President of the Board, shall be

received in evidence, and shall be deemed to be such orders without further proof, unless the contrary is shown.

(2) A certificate, signed by the President of the Board of Trade, that any order made or act done is the order or act of the Board, shall be conclusive evidence of the fact so certified.

PART II.

POWERS AND DUTIES OF REGISTRAR OF TRADE-MARKS.

Exercise of discretionary power by registrar.

53. Where any discretionary or other power is given to the registrar by this Act or rules made thereunder he shall not exercise that power adversely to the applicant for registration or the registered proprietor of the trade-mark in question without (if duly required so to do within the prescribed time) giving such applicant or registered proprietor an opportunity of being heard.

Appeal from registrar.

54. Except where expressly given by the provisions of this Act or rules made thereunder there shall be no appeal from a decision of the registrar otherwise than to the Board of Trade, but the court, in dealing with any question of the rectification of the register (including all applications under the provisions of section 35 of this Act), shall have power to review any decision of the registrar relating to the entry in question or the correction sought to be made.

Recognition of agents.

55. Where by this Act any act has to be done by or to any person in connection with a trade-mark or proposed trade-mark or any procedure relating thereto, such act may under and in accordance with rules made under this Act or in particular cases by special leave of the Board of Trade be done by or to an agent of such party duly authorized in the prescribed manner.

Registrar may take directions of law officers.

56. The registrar may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to His Majesty's attorney general or solicitor general for England for directions in the matter.

Annual reports of comptroller (46 and 47 Vict., c. 57).

57. The comptroller general of patents, designs, and trade-marks shall in his yearly report on the execution by or under him of the

Patents, Designs, and Trade-Marks Act, 1883, and acts amending the same, include a report respecting the execution by or under him of this Act as though it formed a part of or was included in such acts.

POWERS AND DUTIES OF THE BOARD OF TRADE.

Proceedings before Board of Trade.

58. All things required or authorized under this Act to be done by, to, or before the Board of Trade may be done by, to, or before the president or a secretary or an assistant secretary of the Board or any person authorized in that behalf by the President of the Board.

Appeals to Board of Trade.

59. Where under this Act an appeal is made to the Board of Trade, the Board of Trade may, if they think fit, refer any such appeal to the court in lieu of hearing and deciding it themselves, but, unless the Board so refer the appeal, it shall be heard and decided by the Board, and the decision of the Board shall be final.

Power of Board of Trade to make rules.

60. (1) Subject to the provisions of this Act the Board of Trade may from time to time make such rules, prescribe such forms, and generally do such things as they think expedient—

(a) For regulating the practice under this Act.

(b) For classifying goods for the purposes of registration of trade-marks.

(c) For making or requiring duplicates of trade-marks and other documents.

(d) For securing and regulating the publishing and selling or distributing, in such manner as the board of trade think fit, of copies of trade-marks and other documents.

(e) Generally, for regulating the business of the office in relation to trade-marks and all things by this Act placed under the direction or control of the registrar or of the Board of Trade.

(2) Rules made under this section shall, whilst in force, be of the same effect as if they were contained in this Act.

(3) Before making any rules under this section the Board of Trade shall publish notice of their intention to make the rules and of the place where copies of the draft rules may be obtained in such manner as the board consider most expedient, so as to enable persons affected to make representations to the Board before the rules are finally settled.

(4) Any rules made in pursuance of this section shall be forthwith advertised twice in the Trade-Marks Journal, and shall be laid before both Houses of Parliament, if Parliament be in session at the time of making thereof, or, if not, then as soon as practicable after the beginning of the then next session of Parliament.

(5) If either House of Parliament, within the next 40 days after any rules have been so laid before such House, resolve that such rules or any of them ought to be annulled, the same shall after the date of such resolution be of no effect, without prejudice to the validity of anything done in the meantime under such rules or rule or to the making of any new rules or rule.

Fees.

61. There shall be paid in respect of applications and registration and other matters under this Act, such fees as may be, with the sanction of the treasury, prescribed by the Board of Trade.

SPECIAL TRADE-MARKS.

Standardization, etc., trade-marks.

62. Where any association or person undertakes the examination of any goods in respect of origin, material, mode of manufacture, quality, accuracy, or other characteristic, and certifies the result of such examination by mark used upon or in connection with such goods, the Board of Trade may, if they shall judge it to be to the public advantage, permit such association or person to register such mark as a trade-mark in respect of such goods, whether or not such association or person be a trading association or trader or possessed of a good will in connection with such examination and certifying. When so registered such trade-mark shall be deemed in all respects to be a registered trade-mark, and such association or person to be the proprietor thereof, save that such trade-mark shall be transmissible or assignable only by permission of the Board of Trade.

Sheffield marks.

63. With respect to the master, wardens, searchers, assistants, and commonalty of the Company of Cutlers in Hallamshire, in the county of York (in this Act called the Cutlers' Co.), and the marks or devices (in this Act called Sheffield marks) assigned or registered by the master, wardens, searchers, and assistants of that company, the following provisions shall have effect:

(1) The Cutlers' Co. shall continue to keep at Sheffield the register of trade-marks (in this Act called the Sheffield register) kept by them at the date of the commencement of this act, and, save as otherwise provided by this Act, such register shall for all purposes form part of the register.

(2) The Cutlers' Co. shall, on request made in the prescribed manner, enter in the Sheffield register, in respect of metal goods as defined in this section, all the trade-marks which shall have been assigned by the Cutlers' Co. and actually used before the 1st day of January, 1884, but which have not been entered in such register before the passing of this Act.

(3) An application for registration of a trade-mark used on metal goods shall, if made after the commencement of this Act by a person carrying on business in Hallamshire, or within 6 miles thereof, be made to the Cutlers' Co.

(4) Every application so made to the Cutlers' Co. shall be notified to the registrar in the prescribed manner, and, unless the registrar within the prescribed time gives notice to the Cutlers' Co. of any objection to the acceptance of the application, it shall be proceeded with by the Cutlers' Co. in the prescribed manner.

(5) If the registrar gives notice of an objection as aforesaid, the application shall not be proceeded with by the Cutlers' Co., but any person aggrieved may in the prescribed manner appeal to the court.

(6) Upon the registration of a trade-mark in the Sheffield register the Cutlers' Co. shall give notice thereof to the registrar, who shall thereupon enter the mark in the register of trade-marks; and such registration shall bear date as of the day of application to the Cutlers' Co., and have the same effect as if the application had been made to the registrar on that day.

(7) The provisions of this Act, and of any rules made under this Act with respect to the registration of trade-marks, and all matters relating thereto, shall, subject to the provisions of this section (and notwithstanding anything in any act relating to the Cutlers' Co.), apply to the registration of trade-marks on metal goods by the Cutlers' Co., and to all matters relating thereto; and this Act and any such rules shall, so far as applicable, be construed accordingly with the substitution of the Cutlers' Co., the office of the Cutlers' Co., and the Sheffield register, for the registrar, the patent office, and the register of trade-marks respectively; and notice of every entry, cancellation, or correction made in the Sheffield register shall be given to the registrar by the Cutlers' Co.

(8) When the registrar receives from any person not carrying on business in Hallamshire or within 6 miles thereof an application for registration of a trade-mark used on metal goods, he shall in the

prescribed manner notify the application and proceedings thereon to the Cutlers' Co.

(9) Any person aggrieved by a decision of the Cutlers' Co., in respect of anything done or omitted under this Act may, in the prescribed manner, appeal to the court.

(10) For the purposes of this section the expression "metal goods" means all metals, whether wrought, unwrought, or partly wrought, and all goods composed wholly or partly of any metal.

(11) For the purpose of legal proceedings in relation to trade-marks entered in the Sheffield register a certificate under the hand of the master of the Cutlers' Co. shall have the same effect as the certificate of the registrar.

Cotton marks.

64. (1) The Manchester branch of the trade-marks registry of the patent office (hereinafter called "the Manchester branch") shall be continued according to its present constitution. A chief officer of the Manchester branch shall be appointed who shall be styled "the keeper of cotton marks," and shall act under the direction of the registrar. The present keeper of the Manchester branch shall be the first keeper of cotton marks.

(2) As regards cotton goods which have hitherto constituted classes 23, 24, and 25, under the classification of goods under the patents, designs, and trade-marks acts, 1883 to 1902, the register of trade-marks for all such goods, except such as may be prescribed, shall be called "the Manchester register," and a duplicate thereof shall be kept at the Manchester branch.

(3) All applications for registration of trade-marks for such cotton goods in the said classes (hereinafter referred to as "cotton marks") shall be made to the Manchester branch.

(4) Every application so made to the Manchester branch shall be notified to the registrar in the prescribed manner together with the report of the keeper of cotton marks thereon, and unless the registrar, after considering the report and hearing, if so required, the applicant, within the prescribed time gives notice to the keeper of cotton marks of objection to the acceptance of the application, it shall be advertised by the Manchester branch and shall be proceeded with in the prescribed manner.

(5) If the registrar gives notice of objection as aforesaid the application shall not be proceeded with, but any person aggrieved may in the prescribed manner appeal to the court or the board of trade, at the option of the applicant.

(6) Upon the registration of a trade-mark in the Manchester register the keeper of cotton marks shall upon notice thereof from the registrar thereupon enter the mark in the duplicate of the Man-

chester register, and such registration shall bear date as of the day of application to the Manchester branch, and shall have the same effect as if the application had been made to the registrar on that day.

(7) When any mark is removed from or any cancellation or correction made in the Manchester register notice thereof shall be given by the registrar to the keeper of cotton marks, who shall alter the duplicate register accordingly.

(8) For the purpose of all proceedings in relation to trade-marks entered in the Manchester register a certificate under the hand of the keeper of cotton marks shall have the same effect as a certificate of the registrar.

(9) In every application for registration of a cotton mark, if such mark has been used by the applicant or his predecessors in business prior to the date of application, the length of time of such user shall be stated on the application.

(10) As from the passing of this Act—

(a) In respect of cotton piece goods and cotton yarn no mark consisting of a word or words alone (whether invented or otherwise) shall be registered, and no words or words shall be deemed to be distinctive in respect of such goods.

(b) In respect of cotton piece goods no mark consisting of a line heading alone shall be registered, and no line heading shall be deemed to be distinctive in respect of such goods.

(c) No registration of a cotton mark shall give any exclusive right to the use of any word, letter, numeral, line heading, or any combination thereof.

39 and 40 Vict., c. 33.

(11) The right of inspection of the Manchester register shall extend to and include the right to inspect all applications whatsoever that have been since the passing of the Trade-Marks Registration Act, 1875, and hereafter shall have been made to the Manchester branch in respect of cotton goods in classes 23, 24, and 25, whether registered, refused, lapsed, expired, withdrawn, abandoned, canceled or pending.

(12) The keeper of cotton marks shall, on request, and on production of a facsimile of the mark, and on payment of the prescribed fee, issue a certified copy of the application for registration of any cotton mark, setting forth in such certificate the length of time of user (if any) of such mark as stated on the application, and any other particulars he may deem necessary.

(13) As regards any rules or forms affecting cotton marks which are proposed by the Board of Trade to be made, the draft of the same shall be sent to the keeper of cotton marks and also to the Manchester Chamber of Commerce. And the said keeper, and also the said

chamber, shall, if they or either of them so request, be entitled to be heard by the Board of Trade upon such proposed rules before the same are carried into effect.

(14) The existing practice whereby the keeper of the Manchester branch consults the trade and merchandise marks committee appointed by the Manchester Chamber of Commerce upon questions of novelty or difficulty arising on applications to register cotton marks shall be continued by the keeper of cotton marks.

International and colonial arrangements (48 and 49 Vict. c. 63). ..

65. The provisions of sections 103 and 104 of the Patents, Designs, and Trade-Marks Act, 1883 (as amended by the Patents, Designs, and Trade-Marks (amendment) Act, 1885), relating to the registration of trade-marks both as enacted in such acts and as applied by any order in council made thereunder, shall be construed as applying to trade-marks registrable under this Act.

OFFENSES.

Falsification of entries in register.

66. If any person makes or causes to be made a false entry in the register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

Penalty on falsely representing a trade-mark as registered.

6. (1) Any person who represents a trade-mark as registered which is not so shall be liable for every offense on summary conviction to a fine not exceeding £5.

(2) A person shall be deemed, for the purposes of this enactment, to represent that a trade-mark is registered, if he uses in connection with the trade-mark the word "registered," or any words expressing or implying that registration has been obtained for the trade-mark.

ROYAL ARMS.

Unauthorized assumption of royal arms.

68. If any person, without the authority of His Majesty, uses in connection with any trade, business, calling, or profession, the royal

arms (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorized so to use the royal arms, or if any person without the authority of His Majesty or of a member of the royal family, uses in connection with any trade, business, calling, or profession any device, emblem, or title in such manner as to be calculated to lead to the belief that he is employed by or supplies goods to His Majesty or such member of the royal family, he may, at the suit of any person who is authorized to use such arms or such device, emblem, or title, or is authorized by the Lord Chamberlain to take proceedings in that behalf, be restrained by injunction or interdict from continuing so to use the same: *Provided*, That nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade-mark containing any such arms, device, emblem, or title to continue to use such trade-mark.

COURTS.

General saving for jurisdiction of courts.

69. The provisions of this Act conferring a special jurisdiction on the court as defined by this Act shall not, except so far as the jurisdiction extends, affect the jurisdiction of any court in Scotland or Ireland in any proceedings relating to trade-marks; and with reference to any such proceedings in Scotland the term "the court" shall mean the court of session; and with reference to any such proceedings in Ireland the term "the court" shall mean the high court of justice in Ireland.

Isle of Man.

70. This act shall extend to the Isle of Man, and—

(1) Nothing in this Act shall affect the jurisdiction of the courts in the Isle of Man in proceedings for infringement or in any action or proceeding respecting a trade-mark competent to those courts.

(2) The punishment for a misdemeanor under this Act in the Isle of Man shall be imprisonment for any term not exceeding two years, with or without hard labor and with or without a fine not exceeding £100, at the discretion of the court.

(3) An offence under this Act committed in the Isle of Man which would in England be punishable on summary conviction may be prosecuted, and any fine in respect thereof recovered at the instance of any person aggrieved, in the manner in which offenses punishable on summary conviction may for the time being be prosecuted.

Jurisdiction of Lancashire Valatine court.

71. The court of chancery of the County Palatine of Lancaster shall, with respect to any action or other proceeding in relation to trade-marks, the registration whereof is applied for in the Manchester branch, have the like jurisdiction under this Act as His Majesty's high court of justice in England, and the expression "the court" in this Act shall be construed and have effect accordingly: *Provided*, That every decision of the court of chancery of the County Palatine of Lancaster in pursuance of this section shall be subject to the like appeal as decisions of that court in other cases.

Offenses in Scotland.

72. In Scotland any offense under this Act declared to be punishable on summary conviction may be prosecuted in the sheriff court.

REPEAL—SAVINGS.

Repeal and saving for rules, etc.

73. The enactments described in the schedule of this Act are repealed to the extent mentioned in the third column, but this repeal shall not affect any rule, table of fees, or classification of goods made under any enactment so repealed, but every such rule, table of fees, or classification of goods shall continue in force as if made under this Act until superseded by rules, tables of fees, or classification under this Act.

Application of 46 and 47 Vict., c. 57, ss. 82–84.

74. The provisions of sections 82 to 84 of the Patents, Designs, and Trade-Marks Act, 1883, as amended by any subsequent enactment shall continue to apply with respect to the administration at the patent office of the law relating to the registration of trade-marks, and shall accordingly be construed as if this Act formed part of that Act.

SCHEDULE.

Section 73—Enactments repealed.

Session and chapter.	Short title.	Extent of repeal.
46 and 47 Vict., c. 57.	The patents, designs, and trade-marks act, 1883.	Sections 62 to 81, and, so far as they respectively relate to trade-marks, sections 85 to 99, 101, 102, 105, 108, 111 to 117.
51 and 52 Vict., c. 50.	The patents, designs and trade-marks act, 1888.	Sections 8 to 20, and, so far as they respectively relate to trade-marks, sections 21 to 26.

GREAT BRITAIN—WAR LEGISLATION.

PATENTS—DESIGNS—TRADE-MARKS—(TEMPORARY RULES) ACT OF
AUGUST 7, 1914.

CHAPTER 27.—An Act to extend the powers of the Board of Trade during the continuance of the present hostilities to make rules under the Patents and Designs Act, 1907, and the Trade-Marks Act, 1905. [7th August, 1914.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. (1) The power of the Board of Trade under section 86 of the Patents and Designs Act, 1907, and section 60 of the Trade-Marks Act, 1905, to make rules and to do such things as they think expedient for the purposes therein mentioned shall include power to make rules and to do such things as they think expedient for avoiding or suspending in whole or in part any patent or license granted to, and the registration of any trade-mark the proprietor whereof is, a subject of any State at war with His Majesty, and any proceedings on any application made by any such person under either of the said Acts and for extending the time within which any act or thing may or is required to be done under those Acts.

(2) In relation to rules made under this Act the provisions of subsection (3) of section 60 of the Trade-Marks Act, 1905, shall not apply.

(3) If the rules made under this Act so provide the rules or any of them shall have effect as from the passing of this Act.

2. This Act may be cited as the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914.

3. This Act and the rules made thereunder shall continue in force during the continuance of the present state of war in Europe, and for a period of six months thereafter and no longer.

PATENTS—DESIGNS—TRADE-MARKS—(TEMPORARY RULES) ACT
(AMENDATORY) OF AUGUST 28, 1914.

[Translation.]

CHAPTER 73.

1. The Act of 1914 concerning the Patents, Designs, and Trade-Marks (temporary) rules shall become effective and shall be consid-

ered as having always been effective with the modifications hereinafter indicated, to wit:

(a) In section 1, the words "any patent or license granted to, and the registration of any trade-mark the proprietor whereof is, a subject of any State at war with His Majesty, and any such proceedings on any application made by any such person under either of the said Acts and for extending the time within which any act or thing may or is required to be done under those Acts," shall be replaced by the following words, "any patent or license whereof the beneficiary is the subject of a State at war with His Majesty; to avoid or suspend the registration of a design or of a trade-mark whereof the proprietor is the subject of any such State, as well as all the rights or a part of the rights that proceed from this registration; to avoid or suspend any application effected by any such person by virtue of one or the other of these Acts; to empower the Board of Trade to grant to any persons other than those above mentioned—for the whole term of the patent or of the registration, or for such less duration as the Board shall judge proper, and by providing the conditions that it shall deem advisable to establish—licenses for the manufacture, use, exploitation or sale of patented inventions and registered designs that are subject to avoidance or suspension, as has been above mentioned."

(b) The following subsection shall be added to the end of said section:

"4. The present Act applies to any person residing or carrying on his business in the territory of a State at war with His Majesty, as if he were a subject of that State; and the expression 'subject of a State at war with His Majesty,' applied to a society, includes any company whereof the affairs are administered or controlled by such subjects, or exploited, in whole or in part, for the benefit or on the account of such subjects, and this, even when the company shall have been registered in any of the possessions of His Majesty; and, when it shall be a matter of a patent granted to a person for an invention mentioned in the application or in the description as having been communicated to this person by a third party, this third party shall be considered, save proof to the contrary, for the ends of the present Act, as being the beneficiary of the patent."

2. This Act may be cited as the Patents, Designs, and Trade-Marks (amendatory) Act, 1914, concerning the patents, designs, and trade-marks (temporary) rules; and the Act of 1914 concerning the patents, designs, and trade-marks (temporary) rules and the present Act may be cited, conjointly, as the Acts of 1914 concerning the patents, designs, and trade-marks (temporary) rules.

(From *La Propriété Industrielle*, September, 1914.)

PATENTS—DESIGNS—TRADE-MARKS—RULES (TEMPORARY) NOS. 1255
AND 1256—EFFECTIVE AUGUST 7, 1914.

[Statutory rules and orders, 1914, No. 1255.—Patents, designs, and trade-marks (temporary) rules, 1914, dated 21st August, 1914.]

By virtue of the provisions of the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914, the Board of Trade hereby make the following rules:

1. The Board of Trade may, on the application of any person, and subject to such terms and conditions, if any, as they may think fit, order the avoidance or suspension, in whole or in part, of any patent or license granted to a subject of any State at war with His Majesty, and the Board, before granting any such application, may require to be satisfied on the following heads:

(a) That the patentee or licensee is the subject of a State at war with His Majesty.

(b) That the person applying intends to manufacture, or cause to be manufactured, the patented article, or to carry on, or cause to be carried on, the patented process.

(c) That it is in the general interests of the country or of a section of the community, or of a trade, that such article should be manufactured or such process carried on as aforesaid.

The fee to be paid on any such application shall be that specified in the first schedule to the rules and the fee payable on depositing foreign documents or other papers for the purpose of a record not already provided for under the Patents and Designs Act, 1907, and the Trade-Marks Act, 1905, shall be that specified in the first schedule to these rules.

An application under this section must be made on Patents Form No. 36 contained in the second schedule to these rules, and shall be filed at the Patent Office.

The Board of Trade may, at any time, in their absolute discretion, revoke any avoidance or suspension of any patent or license ordered by them.

For the purpose of exercising in any case the powers of avoiding or suspending a patent or license, the Board of Trade may appoint such person or persons as they shall think fit to hold an inquiry.

Any application to the Board for the avoidance or suspension of any patent or license may be referred for hearing and inquiry to such person or persons who shall report thereon to the Board.

Provided always that the Board of Trade may at any time, if in their absolute discretion they deem it expedient in the public interest, order the avoidance or suspension in whole or in part of any such patent or license upon such terms and conditions, if any, as they may think fit.

2. The comptroller may, at any time during the continuance of these rules, avoid or suspend any proceedings on any application made under the Patents and Designs Act, 1907, and the Trade-Marks Act, 1905, by a subject of any State at war with His Majesty.

3. The comptroller may also at any time during the continuance of these rules extend the time prescribed by the Patents and Designs Act, 1907, or the Trade-Marks Act, 1905, or any rules made thereunder, for doing any act or filing any document, upon such terms and subject to such conditions as he may think fit in the following cases, namely:

(a) Where it is shown to his satisfaction that the applicant, patentee, or proprietor, as the case may be, was prevented from doing the said act, or filing the said document, by reason of active service or enforced absence from this country, or any other circumstances arising from the present state of war, which in the opinion of the comptroller would justify such extension.

(b) Where the doing of any act would, by reason of the circumstances arising from the present state of war, be prejudicial or injurious to the rights or interests of any applicant, patentee, or proprietor as aforesaid.

4. The term "person" used in these rules shall, in addition to the meaning given thereto by section 19 of the Interpretation Act, 1889, include any Government department.

5. All things required or authorized to be done by, to, or before the Board of Trade may be done by, to, or before the president or a secretary or an assistant secretary of the Board, or any person authorized in that behalf by the President of the Board.

All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board or to be signed by a secretary or an assistant secretary of the Board or by any person authorized in that behalf by the President of the Board shall be received in evidence and shall be deemed to be such orders without further proof unless the contrary is shown.

A certificate signed by the President of the Board of Trade that any order made or act done is the order or act of the Board shall be conclusive evidence of the fact so certified.

6. These rules shall come into operation as and from the 7th day of August, 1914.

Dated, the 21st day of August, 1914.

WALTER RUNCIMAN,

President of the Board of Trade.

(Schedules omitted for lack of space.—*Ed.*)

PROCEDURE TO BE FOLLOWED UNDER RULES 2 AND 3 OF THE ABOVE RULES.

Until further notice the following procedure will be adopted in dealing with all work in connection with patents, designs, and trade-marks:

1. During the continuance of the war no patent will be sealed and no registration of a trade-mark or design will be granted to subjects (hereinafter called "such subjects") of any State at war with His Majesty.

The term "such subjects" will be taken to include (a) a firm which by reason of its constitution may be considered as managed or controlled by such subjects or the business whereof is wholly or mainly carried on on behalf of such subjects, (b) a company which has received its constitution in an enemy's State, (c) a company registered in His Majesty's dominions the business whereof is managed or controlled by such subjects, or is carried on wholly or mainly on behalf of such subjects.

2. As regards applications for patents, designs, or trade-marks, no distinction will in the first place be drawn between those made by such subjects and those made by other persons. All proceedings thereunder will be carried on as usual down to the time of acceptance, but in the case of applications by such subjects formal acceptance will not be issued.

3. Applicants who fail to conform to the provisions of the Patents and Designs Act, 1905, the Trade-Marks Act, 1905, and the rules made thereunder will run the risk of losing their rights, unless they are able to bring themselves under the provisions of rule 3 of the rules set out above. Applications under rule 3 (a) should be made and will be considered at such time as the applicant, patentee, or proprietor of a design or trade-mark, as the case may be, is in a position to do the said act or file the said document as aforesaid. Applications under rule 3 (b) should be made before the date for the doing of any such act.

4. As regards oppositions to the grant of patents and the registration of trade-marks arising after the commencement of the war, (a) oppositions by such subjects in cases where the grant or registration opposed is one to a British citizen or alien friend will not be entertained. (b) In the case where the grant or registration opposed is a grant or registration to any such subject, the notice of opposition will be accepted, but all further proceedings will be suspended until the end of the war.

5. As regards inventions communicated by such subjects as aforesaid in respect of which patents are applied for by persons in this country, these will be treated in the same manner as if made directly by the communicator.

Dated 21st day of August, 1914.

W. TEMPLE FRANKS,
Comptroller General.

STATUTORY RULES AND ORDERS, 1914, No. 1256—TRADE-MARKS.

TRADE-MARKS (TEMPORARY) RULES, 1914, DATED 21ST AUGUST, 1914.

By virtue of the provisions of the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914, the Board of Trade hereby make the following rules:

1. The Board of Trade may, on the application of any person, and subject to such terms and conditions, if any, as they may think fit, order the avoidance or suspension, in whole or in part, of the registration of any trade-mark the proprietor whereof is a subject of any State at war with His Majesty; and the Board, before granting any such application, may require to be satisfied on the following heads:

(a) That the proprietor is the subject of a State at war with His Majesty.

(b) That the person applying intends to manufacture, or cause to be manufactured, the goods or any of them in respect of which the trade-mark is registered.

(c) That it is in the general interests of the country or of a section of the community, or of a trade, that the registration of the trade-mark should be so avoided or suspended.

The fee to be paid on any such application shall be that specified in the first schedule to these rules.

An application under this section must be made on Form T. M. No. 36, contained in the second schedule to these rules, and shall be filed at the Patent Office.

The Board of Trade may at any time, in their absolute discretion, revoke any avoidance or suspension of any registration of a trade-mark ordered by them.

For the purpose of exercising in any case the powers of avoiding or suspending the registration of a trade-mark the Board of Trade may appoint such person or persons as they shall think fit to hold an inquiry.

Any application to the Board for the avoidance or suspension of any registration of a trade-mark may be referred for hearing and inquiry to such person or persons, who shall report thereon to the Board.

Provided always that the Board of Trade may at any time, if in their absolute discretion they deem it expedient in the public interest, order the avoidance or suspension, in whole or in part, of any such registration of a trade-mark upon such terms and conditions, if any, as they may think fit.

2. The term "person" used in these rules shall, in addition to the meaning given thereto by section 19 of the Interpretation Act, 1889, include any Government department.

3. All things required or authorized to be done by, to, or before the Board of Trade may be done by, to, or before the president or a secretary or an assistant secretary of the Board or any person authorized in that behalf by the President of the Board.

All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board or to be signed by a secretary or an assistant secretary of the Board or by any person authorized in that behalf by the President of the Board shall be received in evidence and shall be deemed to be such orders without further proof unless the contrary is shown.

A certificate signed by the President of the Board of Trade that any order made or act done is the order or act of the Board shall be conclusive evidence of the fact so certified.

4. These rules shall be called the Trade-Marks (temporary) Rules, 1914, and shall come into operation as and from the 7th day of August, 1914.

Dated the 21st day of August, 1914.

WALTER RUNCIMAN,

President of the Board of Trade.

(Schedules omitted for lack of space.—Ed.)

DEPOSIT OF DOCUMENTS RELATING TO FOREIGN PATENTS, DESIGNS, AND TRADE-MARKS.

In compliance with a request made by the Council of the Chartered Institute of Patent Agents, it has been arranged that notifications and documents relating to foreign patents, designs, and trade-marks, which agents or others are unable to forward to their destination abroad, may be deposited in the Patent Office (room 27), with the object of recording the intention on the part of the depositor to do any act or to file any document on a certain date at a foreign patent office. No guaranty can, however, be given that such procedure will be of any advantage to the persons concerned.

Notifications and documents (other than drawings) so deposited must be written on foolscap paper and filed in duplicate, and the purpose for which the deposit is required must be stated. One copy, bearing a 2s. 6d. stamp, to be impressed at the Inland Revenue Office

(room 28), will be retained in the Office, and the other copy, after being numbered and dated, will be returned to the applicant.

A separate notice must be given in respect of each country, but several fees may be included in one notice, provided that they are afterwards to be paid through one and the same foreign agent.

The Chartered Institute of Patent Agents are opening a trust account into which money in regard to such matters may be paid, subject to such rules as the institute may make.

(From *The Illustrated Official Journal (Patents)*, No. 1336, Aug. 26, 1914.)

PATENTS—DESIGNS—TRADE-MARKS—ALIEN ENEMY—HEARING—PROCEDURE—RULE OF SEPTEMBER 7, 1914.

PROCEDURE TO BE FOLLOWED UNDER RULE 1 OF THE PATENTS, DESIGNS, AND TRADE-MARKS (TEMPORARY) RULES, THE TRADE-MARKS (TEMPORARY) RULES, AND THE DESIGNS (TEMPORARY) RULES, 1914.

(1) A copy of the application when received will be at once sent to the address for service in the United Kingdom given by the patentee, licensee, or proprietor of the design or trade-mark, as the case may be, or to any one whose name appears upon the register as having an interest in the patent, design, or trade-mark.

(2) The date for hearing the application will be fixed on receipt of the application and will be notified to the applicant and to the patentee, proprietor, or other person interested, at his address for service in the United Kingdom. The application and the date of the hearing will also be advertised in the *Illustrated Official Journal (Patents)* or *Trade-Marks Journal*. The date fixed for the hearing will be not less than seven days after the advertisement of the application in the Journal.

(3) The applicant must produce evidence at the hearing to satisfy the tribunal in respect of (a), (b), and (c) of rule 1, and that he is not himself an alien enemy. The evidence may be either oral or by way of statutory declaration. The patentee or proprietor of the design or trade-mark or any one interested may appear at the hearing in opposition to the application, provided that notice of his intention so to appear be given in writing to the comptroller at the Patent Office before the date of the hearing.

Dated, September 7, 1914.

(Signed)

W. TEMPLE FRANKS,
Comptroller General.

(From the *Illustrated Official Journal (Patents)*, No. 1338, Sept. 9, 1914.)

The *Illustrated Official Journal (Patents)*, No. 1338, of September 9, 1914, contains a list of fourteen patents belonging to the alien enemy, for which dates of hearing are set, to hear arguments as to why said patents should not be suspended or declared void. Opportunity is given to "any person interested who desires to be heard in opposition to any of the * * * applications," and who "must give notice in writing addressed to the Comptroller General of the Patent Office before the date given as the approximate date of hearing."

DESIGNS—RULES (TEMPORARY), 1914, No. 1327—EFFECTIVE SEPTEMBER 5, 1914.

STATUTORY RULES AND ORDERS, 1914, NO. 1327—DESIGNS—THE DESIGNS (TEMPORARY) RULES, 1914, DATED SEPTEMBER 5, 1914.

By virtue of the provisions of the Patents, Designs, and Trade-Marks (temporary rules) Acts, 1914, the Board of Trade hereby make the following rules:

1. The Board of Trade may, on the application of any person, and subject to such terms and conditions, if any, as they may think fit, order the avoidance or suspension of the registration and all or any rights conferred by the registration of any design the proprietor whereof is a subject of any State at war with His Majesty, and the Board, before granting any such application, may require to be satisfied on the following heads:

(a) That the proprietor is the subject of a State at war with His Majesty.

(b) That the person applying intends to manufacture or cause to be manufactured, the goods or any of them in respect of which the design is registered.

(c) That it is in the general interests of the country or of a section of the community, or of a trade that the avoidance or suspension should be ordered.

The fee to be paid on any such application shall be that specified in the first schedule to these rules.

An application under this section must be made on Form Designs No. 36 contained in the second schedule to these rules, and shall be filed at the Patent Office.

The Board of Trade may at any time, in their absolute discretion, revoke any avoidance or suspension ordered by them.

For the purpose of exercising in any case their powers of avoidance or suspension the Board of Trade may appoint such person or persons as they shall think fit to hold an inquiry.

Any application to the Board for any such avoidance or suspension may be referred for hearing and inquiry to such person or persons who shall report thereon to the Board.

Provided always that the Board of Trade may at any time, if in their absolute discretion they deem it expedient in the public interest, order the avoidance or suspension of any such registration and all or any rights conferred by the registration of a design upon such terms and conditions, if any, as they may think fit.

2. The term "person" used in these rules shall, in addition to the meaning given thereto by section 19 of the Interpretation Act, 1889, include any Government department.

3. All things required or authorized to be done by, to, or before the Board of Trade may be done by, to, or before the president or a secretary or an assistant secretary of the Board, or any person authorized in that behalf by the President of the Board.

All documents purporting to be orders made by the Board of Trade and to be sealed with the seal of the Board or to be signed by a secretary or an assistant secretary of the Board or by any person authorized in that behalf by the President of the Board shall be received in evidence and shall be deemed to be such orders without further proof unless the contrary is shown.

A certificate signed by the President of the Board of Trade that any order made or act done is the order or act of the Board shall be conclusive evidence of the fact so certified.

4. These rules shall be called the Designs (temporary) Rules, 1914, and shall come into operation as and from the 5th day of September, 1914.

Dated the 5th day of September, 1914.

(Signed) WALTER RUNCIMAN,
President of the Board of Trade.

(From the *Illustrated Official Journal (Patents)*, No. 1340, Sept. 23, 1914.)

PATENTS—DESIGNS—RULES (TEMPORARY), 1914, No. 1328, OF SEPTEMBER 7, 1914.

STATUTORY RULES AND ORDERS, 1914, NO. 1328—PATENT AND DESIGNS—THE PATENTS AND DESIGNS (TEMPORARY) RULES, 1914, DATED SEPTEMBER 7, 1914.

By virtue of the provisions of the Patents, Designs, and Trade-Marks (temporary) Rules Acts, 1914, the Board of Trade do hereby make the following rules:

1. In any case in which the Board of Trade makes an order by virtue of the powers vested in them under the provisions of the Patents,

Designs, and Trade-Marks (temporary) Rules Acts, 1914, and under any rules made under these Acts or either of them, avoiding or suspending in whole or in part a patent, or avoiding or suspending the registration and all or any rights conferred by the registration of any design the Board may in their discretion grant in favor of persons other than the subject of any state at war with His Majesty, licenses to make, use, exercise, or vend the patented invention or registered design so avoided or suspended upon such terms and conditions, and either for the whole term of the patent or registration of the design, or for such less period as the Board of Trade may think fit.

2. These rules shall be read and construed as one with the Patents, Designs, and Trade-Marks (temporary) Rules, 1914, dated 21st of August, 1914, and the Designs Rules, 1914, dated 5th of September, 1914.

Dated this 7th day of September, 1914.

(Signed) WALTER RUNCIMAN,
President of the Board of Trade.

(From the *Official Illustrated Journal (Patents)*, No. 1340, Sept. 23, 1914.)

PATENTS—TRADE-MARKS—DESIGNS—TRADING WITH THE ENEMY—
LICENSE TO PAY TAXES, ETC., OF SEPTEMBER 23, 1914.

Whereas by royal proclamation relating to trading with the enemy, dated the 9th day of September, 1914, it was, amongst other things, declared as follows:

“The expression ‘enemy country’ in this proclamation means the territories of the German Empire and of the dual monarchy of Austria-Hungary, together with all the colonies and dependencies thereof.”

“The expression ‘enemy’ in this proclamation means any person or body of persons of whatever nationality resident or carrying on business in the enemy country. In the case of incorporated bodies enemy character attaches only to those incorporated in an enemy country.”

And whereas it was also declared by the said proclamation that from and after the date of the said proclamation all persons resident, carrying on business, or being in His Majesty’s dominion were prohibited from doing certain acts therein more specifically referred to.

And whereas it was further declared by the said proclamation as follows:

“Nothing in this proclamation shall be taken to prohibit anything which shall be expressly permitted by our license or by the license given on our behalf by a Secretary of State or the Board of Trade.

whether such licenses be especially granted to individuals or be announced as applying to classes of persons."

And whereas it appears desirable to grant the license hereinafter set out:

Now, therefore, the Board of Trade, acting on behalf of His Majesty and in pursuance of the power reserved in the said proclamation, do hereby give and grant license to all persons resident, carrying on business, or being in His Majesty's dominions.

To pay any fees necessary for obtaining the grant, or for obtaining the renewal, of patents or for obtaining the registration of designs or trade-marks, or the renewal of such registration in any "enemy country."

And also to pay on behalf of an "enemy" any fees payable on application for or renewal of the grant of a British patent, or on application for the registration of British designs or trade-marks or the renewal of such registration.

Dated this 23d day of September, 1914.

For and on behalf of the Board of Trade.

(Signed) H. LLEWELLYN SMITH,
Secretary of the said Board.

(From the *Illustrated Official Journal (Patents)*, No. 1341, Sept. 30, 1914.)

PATENTS—DESIGNS—TRADE-MARKS—PRIORITY—WAR MEASURES—EXTENSIONS OF THE TERMS OF PRIORITY ESTABLISHED BY THE UNION.

In 211 Official Gazette, 288, is published the translation of Circular 158/1351 of the International Bureau at Berne, announcing the extension of the terms of priority established by the Union, on account of the present state of war:

GREAT BRITAIN.

Great Britain calls our attention to the fact that No. 3 of the (temporary) regulations of August 21, 1914, on patents, designs, and trade-marks¹ authorizes the granting of extensions of terms in the United Kingdom in all cases where circumstances due to the war may be invoked in good faith as having prevented the filing of an application for patent, a design, or a trade-mark

¹ This provision authorizes the Comptroller General of Patents to extend any term specified for the performance of any act or for the filing of any document in either of the following cases:

(a) When it shall have been shown * * * that the applicant * * * has been prevented from performing the act or filing the respective document by reason of active service, enforced absence from this country, or for any other reason due to the present state of war which in the opinion of the comptroller is of such nature as to justify an extension of terms.

(b) When by reason of circumstances resulting from the present state of war the performance of an act prescribed would have been detrimental or harmful to the interests of the applicant. * * *

within the specified term. According to the British Patent Office, the provision referred to above authorizes an extension of the terms established by section 91 of the Patent and Designs Act of 1907 for the filing of applications entitled to the benefits of the International Convention for the Protection of Industrial Property. The Comptroller of Patents will exercise this faculty in the cases provided for under (a) and (b) of No. 3 of the regulations referred to when circumstances may appear to him to require it. Each case will be investigated by himself upon the application of the interested party, and there is no intention of proceeding to a general extension of the terms of priority applicable indifferently to all cases. Under the terms of section 3 of the law of 1914 relative to the regulations (temporary) with regard to patents, designs, and trade-marks, the regulations issued by virtue of such law shall remain in force during the entire period of the war, and for six months thereafter.

PATENTS—DESIGNS—TRADE-MARKS—FEES—TAXES—ENEMY COUNTRIES—LICENSE—ORDER OF NOVEMBER 4, 1914.

TRADING WITH THE ENEMY—PAYMENT OF PATENTS, DESIGNS, AND TRADE-MARKS FEES.

Whereas by royal proclamation relating to trading with the enemy, dated the 9th day of September, 1914, it was, amongst other things, declared as follows:

“The expression ‘enemy country’ in this proclamation means the territories of the German Empire and of the Dual Monarchy of Austria, together with all the colonies and dependencies thereof.

“The expression ‘enemy’ in this proclamation means any person or body of persons of whatever nationality resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of incorporated bodies, enemy character attaches only to those incorporated in any enemy country.”

And whereas it was also declared by the said proclamation that from and after the date of the said proclamation the persons therein referred to were prohibited from doing certain acts therein more specifically mentioned:

And whereas it was further declared by the said proclamation as follows:

“Nothing in this proclamation shall be taken to prohibit anything which shall be expressly permitted by our license or by the license given on our behalf by a Secretary of State or the Board of Trade, whether such licenses be specially granted to individuals or be announced as applying to classes of persons.”

And whereas in pursuance of the powers conferred by the Trading-with-the-Enemy Proclamation No. 2 of the Board of Trade, acting on behalf of His Majesty by license dated the 23d day of September,

1914, granted license to the persons therein referred to to pay the fees therein more specifically mentioned;

And whereas by proclamation dated the 8th day of October, 1914, the said proclamation dated the 9th day of September, 1914, called the Trading-with-the-Enemy Proclamation No. 2, was amended as therein more specifically set forth, and the said proclamation of the 8th day of October, 1914, was to be read as one with the Trading-with-the-Enemy Proclamation No. 2;

And whereas in consequence of the provisions of the said proclamation dated the 8th day of October, 1914, it is desirable to restate and modify the provisions contained in the before-recited license dated the 23d day of September, 1914.

Now, therefore, the Board of Trade, acting on behalf of His Majesty, and in pursuance of the power reserved in the said proclamation and all other powers thereunto them enabling, do hereby give and grant license to all persons resident, carrying on business or being in the United Kingdom—

To pay any fees necessary for obtaining the grant for or for obtaining the renewal of patents or for obtaining the registration of designs or trade-marks or the renewal of such registration in an “enemy country”;

And also to pay on behalf of an “enemy” any fees payable in the United Kingdom on application for or renewal of the grant of a patent or on application for the registration of designs or trade-marks or the renewal of such registration.

Dated this 4th day of November, 1914.

(Signed) H. LLEWELLYN SMITH,
Secretary of the said Board.

(From *Illustrated Official Journal (Patents)*, Nov. 11, 1914, No. 1347.)

PATENTS—DESIGNS—TRADE-MARKS—FOREIGN—DEPOSIT OF DOCUMENTS—OFFICIAL NOTICE.

In compliance with a request made by the Council of Chartered Institute of Patent Agents it has been arranged that notifications and documents relating to foreign patents, designs, and trade-marks, which agents or others are unable to forward to their destination abroad, may be deposited in the Patent Office (room 27) with the object of recording the intention on the part of the depositor to do any act or to file any document on a certain date at a foreign Patent Office. No guaranty can, however, be given that such procedure will be of any advantage to the persons concerned.

Notifications and documents (other than drawings) so deposited must be written on foolscap paper and filed in duplicate, and the purpose for which the deposit is required must be stated. One copy, bearing a 2s. 6d. stamp (see Patents, Designs, and Trade-Marks Rules, 1914), to be impressed at the Inland Revenue Office (room 28), will be retained in the Office, and the other copy, after being numbered and dated, will be returned to the applicant.

A separate notice must be given of each country, but several fees may be included in one notice, provided that they are afterwards to be paid through one and the same foreign agent.

The Chartered Institute of Patent Agents are opening a trust account, into which money in regard to such matters may be paid, subject to such rules as the institute may make.

(From *Illustrated Official Journal (Patents)*, Nov. 25, 1914, No. 1349.)

PATENTS—TRADE-MARKS—ALIEN ENEMIES—AVOIDANCE OR SUSPENSION—PATENTS, DESIGNS, AND TRADE-MARKS (TEMPORARY RULES) ACTS, 1914.

ALIEN ENEMIES.

Patents, Designs, and Trade-Marks (temporary rules) Acts, 1914.

For the information of the public it is thought desirable that the general principles upon which the Board of Trade will act in dealing with applications for the avoidance or suspension of patents and trade-marks under the above Acts should be made known. The principle given below may be taken as generally applicable, but special cases must necessarily receive exceptional treatment.

Patents.

Licenses will, as a general rule, be granted, where the applicants fulfill the necessary conditions, set out in rule 1 of the temporary rules:

(1) Where there is no manufacture in this country under the patent, and also—

(2) Where what manufacture there is, is carried on by a company or firm on behalf of alien enemies resident abroad, and there is any reason to doubt that the manufacture will continue to be carried on, or where it is in the interests of the country that some other manufacture should be started in the British interests.

[Copy.]

Sir Edward Grey presents his compliments to the United States Ambassador, and has the honor to acknowledge receipt of His Excellency's note of October 2, respecting the payment of patent fees due to His Majesty's Government by United States citizens.

Sir Edward Grey has the honor to transmit herewith in reply a copy of a memorandum on the subject, together with the documents referred to therein, which has been drawn up by the Comptroller General of Patents, Designs, and Trade-Marks.

Sir Edward Grey has the honor to call Mr. Page's attention to the arrangements which have been made by His Majesty's Government in order to prevent the interests of applicants for patents, designs, or trade-marks, of patentees and of proprietors of designs or trade-marks being prejudiced by their failure to do any act or file any document required under the Patents and Designs Act (1907), or the Trade-Marks Act (1905), when such failure is due to circumstances arising from the war.

FOREIGN OFFICE, *November 3, 1914.*

[Copy.]

Under the provisions of section 1 (1) of the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914, the Board of Trade were *inter alia* given power to make rules and do such things as they think expedient for extending the time within which any act or thing may or is required to be done under the Patents and Designs Act, 1907, and the Trade-Marks Act, 1905.

By virtue of this power the Board on the 21st of August last issued the Patents, Designs, and Trade-Marks (temporary) Rules, rule 3 of which runs as follows:

The comptroller may also at any time during the continuance of these rules extend the time prescribed by the Patents and Designs Act, 1907, or the Trade-Marks Act, 1905, or any rules made thereunder, for doing any act or filing any document, upon such terms and subject to such conditions as he may think fit in the following cases, namely:

(a) Where it is shown to his satisfaction that the applicant, patentee, or proprietor, as the case may be, was prevented from doing the said act or filing the said document, by reason of active service or enforced absence from this country or any other circumstances arising from the present state of war, which, in the opinion of the comptroller, would justify such extension.

(b) Where the doing of any act would, by reason of the circumstances arising from the present state of war, be prejudicial or injurious to the rights or interests of any applicant, patentee, or proprietor as aforesaid.

It will be observed that under this rule the comptroller has power to extend the time for doing any of the things mentioned in the American Ambassador's letter provided the circumstances of the case come within the provisions of paragraphs (a) and (b) of that rule.

The procedure to be followed in cases where extensions are necessary is set out in paragraph 3 of the "Procedure to be followed under rules 2 and 3 of the rules," and in this connection it should be noted that an application for an extension of time within which an applicant for a patent, design, or trade-mark, patentee, or proprietor of a design or trade-mark, may do any act (such as the payment of a fee), or file any document should not be made until the applicant, patentee, or proprietor of a design or trade-mark, as the case may be, is in a position to do the said act or file the said document. On the other hand, any application or request to the comptroller to abstain from doing any act should be made before the date for the doing of any such act.

(Signed) W. T. F.

(From 209 *Official Gazette*, 1054.)

PATENTS—DESIGNS—TRADE-MARKS—PRACTICE—RULES (TEMPORARY)
 NOS. 1255 AND 1256—PROCEDURE (AMENDATORY) OF JUNE 1, 1915.

PATENTS, DESIGNS, AND TRADE-MARKS (TEMPORARY) RULES, 1914, DATED
 21ST OF AUGUST, 1914.

[Procedure to be followed under rules 2 and 3 of the above rules.—This procedure is substituted for the procedure dated the 21st of August, 1914.]

Until further notice the following procedure will be adopted in dealing with all work in connection with patents, designs, and trade-marks:

1. During the continuance of the war no patent will be sealed and no registration of a trade-mark or design will be granted to subjects (hereinafter called "such subjects") of any State at war with His Majesty.

The term "such subjects," except for the purposes of paragraph 4 hereof, will be taken to include (a) a firm which by reason of its constitution may be considered as managed or controlled by such subjects or the business whereof is wholly or mainly carried on on behalf of such subjects; (b) a company which has received its constitution in an enemy's State; (c) a company registered in His Majesty's dominions the business whereof is managed or controlled by such subjects, or is carried on wholly or mainly on behalf of such subjects.

2. As regards applications for patents, designs, or trade-marks no distinction will in the first place be drawn between those made by such subjects and those made by other persons. All proceedings thereunder will be carried on as usual down to and including accept-

ance; but in the case of applications by such subjects all proceedings thereon subsequent to acceptance (except such proceedings and matters as are mentioned in sec. 9 of the Patents and Designs Act, 1907) will be suspended until otherwise directed.

The suspension of proceedings upon applications by such subjects will only be recalled or discharged upon proper terms, including, if thought fit, the release of the applicant of the privileges and rights which he would otherwise have under section 10 of the Patents and Designs Act, 1907.

3. Applicants who fail to conform to the provisions of the Patents and Designs Act, 1907, the Trade-Marks Act, 1905, and the rules made thereunder will run the risk of losing their rights unless they are able to bring themselves under the provisions of rule 3 of the above rules. Applications under rule 3 (*a*) should be made and will be considered at such time as the applicant, patentee, or proprietor of a design or trade-mark as the case may be, is in a position to do the said act or file the said document as aforesaid. Applications under rule 3 (*b*) should be made before the date for the doing of any such act.

4. As regards oppositions to the grant of patents and the registration of trade-marks, arising after the commencement of the war (*a*) oppositions by such subjects in cases where the grant or registration opposed is one to a British citizen or alien friend will not be entertained. (*b*) In the case where the grant or registration opposed is a grant or registration to any such subject the notice of opposition will be accepted, but all further proceedings will be suspended until the end of the war.

5. As regards inventions communicated by such subjects as aforesaid in respect of which patents are applied for by persons in this country, these will be treated in the same manner as if made directly by the communicator.

Dated 1st day of June, 1915.

(Signed)

W. TEMPLE FRANKS,
Comptroller General.

PATENTS—LICENSES—WAR MEASURE—TEMPORARY RULES (AMENDATORY) OF JUNE 17, 1915.

STATUTORY RULES AND ORDERS, 1915, NO. 591—PATENTS, DESIGNS, AND TRADE-MARKS (TEMPORARY) RULES, 1915, DATED JUNE 17, 1915.

Whereas by the Patents, Designs, and Trade-Marks Temporary Rules (amendment) Act, 1914, it was provided, amongst other things, that the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914, should have effect, and be deemed always to have had effect, as if

the words "any patent or license granted to a subject of any State at war with His Majesty" there were substituted the words "any patent or license the person entitled to the benefit of which is the subject of any State at war with His Majesty";

And whereas by the rules made under the last-mentioned Act provision was made for the avoidance and suspension in whole or in part of any patent or license granted to a subject of any State at war with His Majesty:

Now, therefore, in pursuance of the powers conferred on them by the said Acts, the Board of Trade hereby make the following rule:

It is hereby declared that the said rules shall have effect, and shall be deemed always to have had effect, as if a substitution similar to the above-cited substitution had been made therein, that is to say, as if in the said rules for the words "any patent or license granted to a subject of any State at war with His Majesty" there were substituted the words "any patent or license the person entitled to the benefit of which is the subject of any State at war with His Majesty."

Dated the 17th day of June, 1915.

(Signed) WALTER RUNCIMAN,
President of the Board of Trade.

(From the *Illustrated Official Journal (Patents)*, June 30, 1915, No. 1380.)

PATENTS—WORKING—PATENTS AND DESIGNS ACT (PARTIAL SUSPENSION) ACT, 1915.

CHAPTER 85.—An Act to suspend the operation of section 27 of the Patents and Designs Act, 1907, during the continuance of the present war, and for a period of six months thereafter (23d November, 1915).

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. The operation of section 27 of the Patents and Designs Act, 1907, shall be suspended during the continuance of the present war, and a period of six months thereafter, and in reckoning the period of four years mentioned in the said section the period during which that section is suspended by virtue of this Act shall not be taken into account.

2. This Act may be cited as the Patents and Designs Act (partial suspension) Act, 1915.

(From *Illustrated Official Journal (Patents)*, Dec. 15, 1915.)

PATENTS—DESIGNS—DETRIMENTAL TO PUBLIC SAFETY—APPLICATIONS—REGULATION—ORDER IN COUNCIL OF OCTOBER 14, 1915.

[Extract from Order in Council of 14th October, 1915.]

At the Court at Buckingham Palace, the 14th day of October, 1915.
Present: The King's Most Excellent Majesty in Council.

Whereas by an Order in Council, dated the 28th day of November, 1914, His Majesty was pleased to make regulations, (called the defense of the realm [consolidation] regulations, 1914) under the Defense of the Realm Consolidation Act, 1914, for securing the public safety and the defense of the realm;

And whereas the said Act has been amended by the Defense of the Realm (amendment) Act, 1915, the Defense of the Realm (amendment), No. 2, Act, 1915, and the Munitions of War Act, 1915;

And whereas the said regulations have been amended by Orders in Council, dated the 23d day of March, the 13th day of April, the 29th day of April, the 2d day of June, the 10th day of June, the 6th day of July, the 28th day of July, and the 24th day of September, 1915;

And whereas it is expedient further to amend the said regulations in manner hereinafter appearing;

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the following amendments be made in the said regulations:

* * * * *

2. After regulation 18a the following regulation shall be inserted:

18b. (1) Where an application has been made, whether before or after the date of the making of this Order, for the grant of a patent or the registration of a design in the United Kingdom, and the comptroller general of patents, designs, and trade-marks is satisfied that the publication of the invention or design might be detrimental to the public safety or the defense of the realm, or might otherwise assist the enemy or endanger the successful prosecution of the war, he may delay the acceptance of the complete specification filed with the application for the patent or, as the case may be, the registration of the design, and in such case may by order prohibit—

(a) The publication or communication in any way of the invention or design;

(b) Application being made for the protection of the invention or design in any enemy or neutral country; and

(c) Application being made for the protection of the invention or design in any allied country or in any of His Majesty's dominions without the permission of the Admiralty and Army Council.

(2) No person shall apply for the grant of a patent in respect of any invention or the registration of a design in any foreign country, or in any of His Majesty's dominions unless he has left at, or sent by post to the Patent Office a notice of his intention together with a provisional specification describing the nature of the invention or, as the case may be, a representation or specimen of

the design, nor until after the expiration of one month from the time when such notice was given, and if during the said month the comptroller general is satisfied that the publication of the invention or design might be detrimental to the public safety or the defense of the realm, or otherwise assist the enemy or endanger the successful prosecution of the war, he may make a like order as in respect of cases in which application is made for the grant of a patent or the registration of a design in the United Kingdom.

(3) Before exercising any of his powers under this regulation as respects any matter the comptroller general shall consult with the Admiralty and Army Council, and shall not act except upon the request of the Admiralty or Army Council.

(4) If any person contravenes the provisions of this regulation or of any order made thereunder, he shall be guilty of an offense against these regulations.

(Signed) ALMERIC FITZROY.

(From the *Illustrated Official Journal (Patents)*, No. 1392, of Sept. 22, 1915.)

PATENTS—DESIGNS—TRADE-MARKS—APPLICATIONS—RENEWALS—NOTICE TO AGENTS.

BOARD OF TRADE ANNOUNCEMENT TO PATENT AGENTS.

The Board of Trade desire to remind patent agents that it is not permissible to receive from agents in enemy countries instructions or documents in respect of applications for the grant or renewal of patents or applications in respect of the registration of designs or trade-marks in the United Kingdom on behalf of persons in neutral countries.

Patent agents should satisfy themselves that any instructions or documents which they may receive on behalf of a person in a neutral country have not passed through the hands of an enemy.

November, 1915.

(Signed) BOARD OF TRADE.

(From *Illustrated Official Journal (Patents)*, Nov. 24, 1915.)

PATENTS—DESIGNS—TRADE-MARKS—(TEMPORARY) RULES, 1915
(SECOND SET), OF OCTOBER 19, 1915.

By virtue of the provisions of the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914, the Board of Trade hereby make the following rules:

1. The comptroller may, at any time during the continuance of these rules, extend the time prescribed by the Patents and Designs Act, 1907, or the Trade-Marks Act, 1905, or any rules made thereunder, for doing any act, upon such terms and subject to such conditions as he may think fit, where the doing of such act would by reason of the present state of war be prejudicial to the public interest.

2. These rules shall be called the Patents, Designs, and Trade-Marks* (temporary) Rules, 1915 (second set), and shall come into operation as and from the 14th day of October, 1915.

Dated the 19th day of October, 1915.

(Signed) WALTER RUNCIMAN,
President of the Board of Trade.

(From the *Illustrated Official Journal (Patents)*, No. 1399, of Nov. 10, 1915.)

PATENTS—DESIGNS — TRADE-MARKS — FEES — PAYMENTS — TRADING
WITH THE ENEMY—ORDER (AMENDATORY) OF DECEMBER 7, 1915.

TRADING WITH THE ENEMY.

Payment of patents, designs, and trade-marks fees.

Whereas by royal proclamation relating to trading with the enemy, dated the 9th day of September, 1914, it was, amongst other things, declared as follows:

“The expression ‘enemy country’ in this proclamation means the territories of the German Empire and of the Dual Monarchy of Austria-Hungary, together with all the colonies and dependencies thereof.

“The expression ‘enemy’ in this proclamation means any person or body of persons, of whatever nationality, resident or carrying on business in the enemy country, but does not include persons of enemy nationality who are neither resident nor carrying on business in the enemy country. In the case of incorporated bodies enemy character attaches only to those incorporated in an enemy country”;

And whereas it was also declared by the said proclamation that from and after the date of the said proclamation the persons therein referred to were prohibited from doing certain acts therein more specifically mentioned;

And whereas it was further declared by the said proclamation as follows:

“Nothing in this proclamation shall be taken to prohibit anything which shall be expressly permitted by our license, or by the license given on our behalf by a Secretary of State or the Board of Trade, whether such licenses be especially granted to individuals or be announced as applying to classes of persons”;

And whereas by proclamation dated the 8th day of October, 1914, the said proclamation dated the 9th day of September, 1914, called the Trading-with-the-Enemy Proclamation No. 2 was amended as therein more specifically set forth, and the said proclamation of the 8th day of October, 1914, was to be read as one with the Trading-with-the-Enemy Proclamation No. 2;

And whereas in pursuance of the powers conferred by the above-recited proclamations the Board of Trade, acting on behalf of His

Majesty by license dated the 4th day of November, 1914, granted license to the persons therein referred to to pay the fees therein more specifically mentioned;

And whereas by proclamation dated the 5th day of November, 1914, it was declared that the provisions of the proclamations and orders in council then in force issued with reference to the state of war with the Emperor of Germany and the Emperor of Austria, King of Hungary, should be extended to the war with Turkey, subject to the exception in such proclamation mentioned, and it was declared that the words "enemy country" in any of the proclamations or orders in council referred to in Article I of the said proclamation should include the dominions of His Imperial Majesty, the Sultan of Turkey, other than Egypt, Cyprus, and any territory in the occupation of us or our allies;

And whereas by proclamation dated the 7th day of January, 1915, the provisions of the proclamations dated, respectively, the 9th day of September, 1914, the 8th day of October, 1914, and the 5th day of November, 1914, were extended as therein more specifically set forth;

And whereas by proclamation dated the 16th day of February, 1915, called the Trading-with-the-Enemy (occupied territory) Proclamation, 1915, it was declared that the proclamations for the time being in force relating to trading with the enemy should apply to territory in friendly occupation as they apply to our territory or that of our allies and to territory in hostile occupation as they apply to an enemy country;

And whereas by proclamation dated the 25th day of June, 1915, called the Trading-with-the-Enemy (China, Siam, Persia, and Morocco) Proclamation, 1915, it was declared that the proclamations for the time being in force relating to trading with the enemy should apply to any person or body of persons of enemy nationality resident or carrying on business in China, Siam, Persia, or Morocco in the same manner as they apply to persons or bodies of persons resident or carrying on business in an enemy country: *Provided*, That where an enemy has a branch locally situated in China, Siam, Persia, or Morocco, nothing in Article 6 of the Trading-with-the-Enemy Proclamation No. 2 should be construed so as to prevent transaction by or with that branch being treated as transaction by or with an enemy;

And whereas by proclamation dated the 14th day of September, 1915, it was declared as follows:

"For the purposes of the proclamation for the time being in force relating to trading with the enemy the expression 'enemy,' notwithstanding anything in the said proclamations, is hereby declared to include and to have included any incorporated company or body of persons (wherever incorporated) carrying on business in an enemy country or in any territory for the time being in hostile occupation";

And whereas by proclamation dated the 16th day of October, 1915, it was declared that the proclamations and orders in council then in force issued with reference to the state of war with the German Emperor or with reference to the state of war with the German Emperor and the Emperor of Austria, King of Hungary, or with reference to the state of war with the German Emperor and the Emperor of Austria, King of Hungary, and the Sultan of Turkey, should be extended to the war with Bulgaria, subject to the exception in such proclamation mentioned, and it was declared that the words "enemy country" in any of the proclamations or orders in council referred to in Article I of such proclamation should include the dominion of the King of the Bulgarians, and the words "persons of enemy nationality" in any of the said proclamations and orders in council should include subjects of the King of the Bulgarians;

And whereas by proclamation dated the 10th day of November, 1915, it was declared that the proclamations for the time being in force relating to trading with the enemy should as from the 10th day of December, 1915, apply to any person or body of persons of enemy nationality resident or carrying on business in Liberia or Portuguese East Africa in the same manner as they apply to persons resident or carrying on business in an enemy country: *Provided*, That where an enemy has a branch locally situated in Liberia or Portuguese East Africa nothing in Article 6 of the Trading-with-the-Enemy Proclamation No. 2 should be construed so as to prevent transactions by or with that branch being treated as transactions by or with an enemy;

And whereas it is desirable to restate and extend the provisions contained in the before-recited license dated the 4th day of November, 1914:

Now, therefore, the Board of Trade, acting on behalf of His Majesty, and in pursuance of the powers reserved in the said proclamations and all other powers thereunto them enabling, do hereby revoke the said license dated the 4th day of November, 1914, and do hereby give and grant license:

(1) To all persons residing, carrying on business, or being in the United Kingdom to pay—

(a) On their own behalf or on behalf of any person or persons residing, carrying on business, or being in the United Kingdom; and

(b) On behalf of any person or persons residing, carrying on business, or being in any part of His Majesty's dominions outside the United Kingdom who have been authorized to make such payments by the Government of that part of His Majesty's dominions any fees necessary for obtaining the grant of or for obtaining the renewal of patents or for obtaining the registration of designs or trade-marks or the renewal of such registration in an "enemy coun-

try," and to pay the enemy agents their charges and expenses in relation to the matters aforesaid:

(2) To all persons residing, carrying on business, or being in the United Kingdom—

(a) To pay on behalf of an "enemy" any fees payable in the United Kingdom on application for or renewal of the grant of patents, or on application for the registration of designs or trade-marks, or the renewal of such registration, and to pay agents in the United Kingdom (including themselves) their charges and expenses, if any, in relation to the matters aforesaid:

(b) To pay on behalf of an "enemy" to any person or persons residing, carrying on business, or being in any part of His Majesty's dominions outside the United Kingdom—subject to such persons having been authorized by the Government of that part of His Majesty's dominions in which they reside, carry on business or are, to pay on behalf of an enemy any such fees in such part of His Majesty's dominions—any fees payable on application for or renewal of the grant of patents, or on application for the registration of designs or trade-marks, or the renewal of such registration in such part of His Majesty's dominions, and also to pay to such persons their charges and expenses, if any, in relation to the matters aforesaid.

Dated this 7th day of December, 1915.

(Signed) G. S. BARNES,
Secretary of the Board of Trade.

(From the *Illustrated Official Journal (Patents)*, Dec. 22, 1915.)

INDUSTRIAL PROPERTY—ENEMY HOLDERS—CONFISCATION—"WAR MEASURES." AMENDATORY ACT CONCERNING TRADE WITH THE ENEMY OF JANUARY 27, 1916.

[Translation.¹]

[Law (amendatory) concerning trade with the enemy (5 and 6 Geo., Ch. 105, of Jan. 27, 1916).]

(4) 1. In cases wherein it appears expedient, the Board of Trade may, by an ordinance, confiscate, by virtue of the amendatory act concerning trade with the enemy, 1914, all property, personal or real (comprising all rights founded upon law or equity that may be found in or result from the said property, personal or real), belonging to an enemy or to an enemy subject, or held or administered for him or for his account, as well as the right of assigning this property, and it may, by the same ordinance or by a subsequent ordinance, confer on the depositary the powers necessary for selling, ad-

¹ For lack of the official copy, the provisions of this Act are retranslated from the French text appearing in *La Propriété Industrielle* of February, 1916.

ministering, or treating this property as the Board of Trade shall deem proper.

(6) If the benefit of a patent application filed by an enemy or by an enemy subject, or for his account or in his favor, is confiscated as result of an order rendered by virtue of the amendatory act concerning trade with the enemy, 1914, or by virtue of the present act, the patent may be delivered to the depositary in the capacity of patentee, and it may, despite what is provided in section 12 of the Act of 1907 concerning patents and designs, be sealed by the comptroller general of patents, designs, and trade-marks, and every patent thus delivered to the depositary shall be held to be a property placed in his possession by the above-mentioned ordinance.

PATENTS—ALIEN ENEMIES—PATENTS, DESIGNS, AND TRADE-MARKS
(TEMPORARY RULES) ACTS, 1914.

Notice is hereby given that in the event of the prescribed renewal fees due in connection with patents in respect of which licenses have been granted by the Board of Trade by virtue of the provisions of the above Acts not being paid by the patentees, such fees may be paid by the licensees and the amount of such fees deducted from the royalties payable to the public trustee under the license. Licensees should inform themselves as to the dates upon which such fees become payable to avoid having to pay extension fees also.

(From the *Illustrated Official Journal (Patents)*, April 19, 1916.)

PATENTS—NEW INVENTIONS—OF INTEREST TO PUBLIC DEFENSE—
DISCLOSURE TO GOVERNMENT REQUIRED—ORDER IN COUNCIL
(AMENDATORY) OF SEPTEMBER 7, 1916.

An Order in Council, dated 7th September, further amends the regulations (called the "Defense of the Realm (Consolidation) Regulations, 1914") made under the Defense of the Realm (consolidation) Act, 1914, for securing the public safety and the defense of the realm. The Order in Council referred to orders, *inter alia*, the following amendments in the regulations:

SECTION I.—REQUIREMENT OF DISCLOSURE OF PARTICULARS OF INVENTIONS, PROCESS OF MANUFACTURE, ETC., OF WAR MATERIAL.

After regulation 8c the following regulation shall be inserted:

8cc. It shall be lawful for the Admiralty or Army Council or Minister of Munitions, with a view to the more efficient or increased production of war material, to require any person to communicate to a person nominated for that purpose by the Admiralty, Army Council, or Minister of Munitions all such particulars

as may be in his possession of any invention, or process or methods of manufacture, or of any article manufactured or proposed to be manufactured, and to furnish drawings, models, or plans thereof, and to explain and demonstrate the same to such persons, in all or any of its uses and workings; and if any person fails or neglects to comply with any such requirement he shall be guilty of an offense against these regulations; and if the requirement is addressed to a company, every director, manager, or officer of the company who fails or neglects to comply with such requirement shall also be guilty of an offense against these regulations.

If any persons, except as authorized by the Admiralty or Army Council or Minister of Munitions, discloses or makes use of any information obtained in consequence of any requirement made under this regulation or communicated to him by any person by whom it was so obtained, he shall be guilty against these regulations.

No communication of an invention made in consequence of any requirement under this regulation, or the use thereof by any person authorized under this regulation to use it, shall prejudice any right of the inventor thereof subsequently to apply for and obtain a patent for the invention.

(From the *Illustrated Official Journal (Patents)*, Sept. 20, 1916, p. 868.)

PATENTS — AMERICAN HOLDERS — RECIPROCAL TREATMENT — “WAR MEASURES” — OFFICIAL COMMUNICATION OF NOVEMBER 22, 1916.

No. 230319/C.

FOREIGN OFFICE,
November 22, 1916.

YOUR EXCELLENCY: I did not fail to refer to the competent department of His Majesty's Government the note (No. 842) which your excellency was good enough to address to me on the 1st instant, inquiring as to the privileges extended by His Majesty's Government to applicants for patents so as to obviate the payment of penalties for delays arising out of the present war.

2. I have now the honor to state that power is given to the Comptroller General of Patents, Designs, and Trade-Marks by the act and rules specified in the memorandum inclosed in my note of November 3, 1914 (209 O. G., 1054), to extend in certain cases the time prescribed for (a) the filing of applications for patents under the international convention; (b) the taking of actions in patent applications pending in the Patent Office; (c) the payment of fees pertaining to pending applications; (d) the payment of fees, taxes, or fines pertaining to patents issued; (e) the recording of assignments, licenses, disclaimers, concessions, etc.; and (f) the defense of suits, interference of opposition proceedings affecting patent rights.

3. Full effect is being given by the Comptroller to rule 3, which was quoted in the memorandum referred to above, and the most generous treatment is accorded in all cases which can possibly be held to come within the rule. United States citizens will in every case be granted

extensions of time where their cases can be brought within the rule, and His Majesty's Government are therefore of opinion that the "substantially similar privileges" which the United States law demands are extended in this country to citizens of the United States.

4. As regards the "working" of patents, I would point out that section 27 of the Patents and Designs Acts, 1907, which provides for the revocation of patents worked exclusively or mainly outside the United Kingdom, has been directly suspended for the period of the war and six months thereafter by the Patents and Designs (partial suspension) Act, 1915. (5 and 6 Geo. V, ch. 85.)

5. The bringing of suits against infringers or for annulment of interfering patents and the filing of applications for the extension of patents concern the procedure of the High Court of Justice, and have not hitherto been dealt with under the Patents, Designs, and Trade-Marks (temporary rules) Act, 1914, but the courts would doubtless consider favorably applications for extensions of time necessitated by the war.

I have the honor to be, with the highest consideration,

Your excellency's most obedient, humble servant,

(Signed)

VICTOR WELLESLEY.

(From 233 *Official Gazette*, 1400.)

PATENTS—DESIGNS—TRADE-MARKS—ALIEN ENEMIES—APPLICATIONS—RENEWALS—"WAR MEASURES"—OFFICIAL ANNOUNCEMENT OF APRIL 13, 1917.

INTERESTS OF BRITISH AND ENEMY SUBJECTS IN PATENTS, TRADE-MARKS AND DESIGNS.

The following announcement has been issued by the Foreign Trade Department of the Foreign Office, under date 13th April:

To all whom it may concern:

Whereas it is desirable to protect the interests of British subjects in patents, trade-marks, and designs, and for this purpose it has proved to be necessary to make certain arrangements dealing with the interests of both British and enemy subjects in patents, trade-marks, and designs; and

Whereas it has been represented to me by the Board of Trade that British subjects are permitted to apply in enemy territories for the grant and renewal of the grant of letters patent and for the registration and renewal of the registration of trade-marks and designs:

Now, I, Ernest Murray Pollock, one of His Majesty's Counsel and a member of the Commons House of Parliament, Controller of the Foreign Trade Department of the Foreign Office, in pursuance of the authority given me in this behalf by His Majesty's Principal Secretary of State for Foreign Affairs, hereby, on behalf of His Majesty, give and grant, unto every person, or body of persons, incor-

porated or unincorporated, resident, carrying on business or being in the United Kingdom, full license and authority to apply on behalf of any person, or body of persons whose name now is, or shall hereafter be, placed on the statutory list of persons with whom trading is forbidden by any proclamation issued under the Trading with the Enemy (extension of powers) Act, 1915, for the grant, or for the renewal of the grant, of any letters patent, or for the registration, or for the renewal of the registration, of any trade-mark or design in the United Kingdom, or in any part of His Majesty's dominions outside the United Kingdom, where such applications are allowed by the Government of that part of His Majesty's dominions to be made on behalf of persons, or bodies of persons, whose names are on the statutory list, and for that purpose to transact all necessary business with regard to the application, and to all matters arising thereout with the person, or body of persons, on whose behalf the application is made, and generally to do all things necessary for carrying the application into effect, and in particular to pay any fees payable in the United Kingdom, or in any such part of His Majesty's dominions outside the United Kingdom as aforesaid (provided that no fees be paid to any person, or persons resident or carrying on business outside the United Kingdom, unless such person or persons is or are permitted by the Government of that part of His Majesty's dominions in which he or they is or are resident or carrying on business, to pay fees on behalf of persons or bodies of persons whose names are on the statutory list), and to pay and retain any charges or expenses incurred in relation to the matter aforesaid.

(From the *Illustrated Official Journal (Patents)*, Apr. 25, 1917, p. 328.)

PATENTS—DESIGNS—TRADE-MARKS—TRADING WITH THE ENEMY—
FEES—BOARD OF TRADE LICENSE—AMENDMENT OF SEPTEMBER 5,
1917.

TRADING WITH THE ENEMY—PAYMENT OF PATENTS, DESIGNS, AND TRADE-
MARKS FEES.

Whereas a license was granted by the Board of Trade on 7th December, 1915, permitting in certain circumstances the payment of fees and agents' charges and expenses in respect of patents, trade-marks, and designs payable in an enemy country or on behalf of an enemy;

And whereas it has been deemed desirable to amend the terms of the said license:

Now, therefore, the Board, acting on behalf of His Majesty and in pursuance of all powers thereunto them enabling, do hereby amend the said license dated 7th December, 1915, as follows—that is to say:

The said license shall have effect subject to the following amendments:

(a) The words "person" or "persons," respectively, wherever they occur in clauses 1 and 2 thereof shall mean a person or persons being of British, allied, or neutral nationality.

(b) In clauses 1 (b) and 2 (b) of the said license there shall be added immediately after the words "His Majesty's dominions" wherever they occur the words "or of allied territory not in hostile occupation."

The following provisos shall be added, viz:

Provided always, That as regards payments on behalf of an enemy under clause 2 of the said license as amended hereby the same may only be made by the person making the same out of moneys:

(a) Remitted by or on behalf of such enemy; or

(b) Held for or on account of such enemy and subject to the provisions of the next paragraph hereof nothing in the said license or herein shall permit any payments to be made on behalf of an enemy by way of gift or by way of advancement or loan to or on account of such enemy;

Provided also, That nothing herein contained shall prevent persons of British, allied, or neutral nationality residing, carrying on business, or being in the United Kingdom who have an interest in or under a patent or design belonging in whole or in part to an enemy from paying out of their own moneys fees payable in the United Kingdom for obtaining the renewal of such patent or for obtaining the renewal of the registration of such design or from paying agents in the United Kingdom (including themselves) their charges and expenses (if any) in relation to such matters.

Dated this 5th day of September, 1917.

(Signed)

H. LLEWELLYN SMITH,

Secretary of the Board of Trade.

(From the *Illustrated Official Journal (Patents)*, Sept. 12, 1917.)

HUNGARY.

[Law of the 7th of July, 1895.]

CHAPTER I.

SUBJECT MATTER OF PATENTS.

SECTION 1. Any new invention capable of being utilized industrially may be patented.

SEC. 2. A patent shall not be allowed for an invention:

1. The working of which is contrary to a law, or an ordinance, or to public morals.

2. Which relates to arms for war purposes, explosives, ammunition, fortifications, or ships of war necessary for increasing the belligerent power of the Austro-Hungarian Army, the Navy, or the Hungarian militia, provided the Minister of Commerce enter an opposition against the grant of such patent within the term named in the second paragraph of section 34.

3. For scientific theorems or principles as such.

4. For articles serving for human or animal nourishment, for medicines and articles produced by chemical processes; the process employed in making such article may, however, be patented.

SEC. 3. The invention shall not be regarded as new if at the time of the application for a patent:

1. It has been so made known by published printed publications or other reproductions that it can be used by persons skilled in the art.

2. It has been so made known by public working, use, or exhibition that its employment by persons skilled in the art has been rendered possible.

3. It has formed the subject matter of a patent.

The invention shall be regarded as new notwithstanding publication of working, if between its last publication or working and the application for a patent for it a term of 100 years have elapsed.

It shall be determined by treaties with foreign States whether an official publication published in a foreign State deprives the invention of novelty (sec. 16).

SEC. 4. Two or more inventions differing from one another must be comprised in one patent unless they relate to one and the same object forming its constituent parts or operative means.

SEC. 5. The patent belongs to the inventor or his successors.

No patent shall be granted for an invention the essence of which has been taken from the description, drawings, models, devices, or apparatus, or from the processes employed by another person without the permission of the inventor or his successors, if he or they enter an opposition to the grant of such patent.

If in consequence of such opposition the application be withdrawn or rejected, the opponent may, if, within a term of thirty days from the receipt of the information of such fact, he file an application for a patent for the invention, claiming that the priority of his own application be reckoned from the date of the former application.

SEC. 6. The grant of a patent to persons in Government or private service, officers or employees, shall be refused on the opposition of the Government or of private persons employing the applicant, if on account of his service or official position, or owing to his contract, the applicant be obliged to use his knowledge of the art for inventing such processes of production or products of industry as those for which he has applied for a patent.

In such cases the Government or the private person or persons respectively are entitled to claim the grant of the patent for themselves within thirty days from the receipt of the information of the withdrawal or the rejection of the application, the priority being reckoned from the day of the former application.

SEC. 7. A patent having for its object an improvement or perfection of any other invention forming the subject matter of a patent or of an application for a patent may, within one year from the date of the application for a patent for the original invention, be granted only to the original applicant or his successors.

Consequently proceedings with reference to applications for improvements lodged by third parties may only be taken if the original applicant have not within the term above named lodged an application relating to such improvements. The applications lodged by third parties during this time shall be officially sealed and kept secret.

A patent having for its subject matter an improvement or perfection of the patented invention shall be granted to the owner of the original patent, either as a patent of addition or as an independent patent, either as a patent of addition or as an independent patent, as he may desire. A patent of addition shall not be granted to any person other than the owner of the original patent.

The patent of addition becomes an independent patent when the original patent becomes void by renunciation, withdrawal, or annulment.

CHAPTER II.

EFFECT OF PATENT.

SEC. 8. A patent confers upon its owner for the whole duration of its legal existence the exclusive right of making commercially, bringing into circulation, and using commercially or in the course of business the subject of the invention.

SEC. 9. A patent does not exonerate its owner from obeying the products produced by such process.

SEC. 9. A patent does not exonerate its owner from obeying the provisions contained in the existing laws and ordinances.

SEC. 10. A patent as well as a claim for the grant of a patent descends to the heirs of the owner.

The owner of a patent has the right to assign his patent as a whole or in part to living persons, and to permit to others to work or to use his patent with or without restrictions.

The right of working or using a patent, and the obligations connected therewith, descend to the heirs. The assignee or licensee may only assign his rights among living persons to others if, according to the agreement made with the patentee, this be explicitly permitted.

SEC. 11. If a patent be granted or assigned to two or more persons, they shall be regarded as joint owners, with equal shares, unless a different agreement be made. Each of the joint owners may freely dispose of his share, and may use the patent according to the meaning of section 8.

The right of using and working may be conferred upon third parties only by agreement of all the joint owners.

SEC. 12. A patent has no effect against a person who, before the date of filing the application by the patentee, has used the invention within the countries of the Hungarian Crown, or made preparations involving its use.

Such a person has the right to use the invention for the purpose of his business in his own or other establishments, but he may not sell or assign his rights except in connection with his own business.

SEC. 13. The effect of a patent does not extend to the construction of such means of transport as only pass through the countries of the Hungarian Crown or to such articles as are imported from abroad into free stores of these countries for the purpose of transit or reexportation without being put on the markets in the said countries.

SEC. 14. The effect of a patent may be restricted in so far, that on the basis of an ordinance of the Minister of Commerce such patent may be claimed, as a whole or in part, for its whole duration, or for

a shorter term, for the army, the militia, or the navy, or for the purposes of the State's monopoly. In such case a suitable compensation shall be given to the inventor, the amount of which, if no agreement can be made, is determined by the courts of law. The fact of an action for compensation being pending does not interfere with the above right of the State to use the invention.

SEC. 15. A person not normally residing in the country may obtain a patent, and exercise the rights originating therefrom, only after appointing, by a special power of attorney duly legalized and lodged in the Patent Office, a representative residing in the country.

Such representative is authorized to represent his client before the patent authorities and courts of law, to lodge requests relating to the application, to keeping in force the patent, to instituting penal proceedings, and to receive decisions on complaints and other decisions.

For actions against owners of patents residing abroad the court within the jurisdiction of which the representative has his residence is competent, or, if the owner have no representative, the court which has the seat of the Patent Office within its jurisdiction.

If the representative of the owner of a patent residing abroad renounce the power of attorney conferred upon him, or if he can not be found, and the owner of the patent have not appointed a new representative, or if the owner of the patent residing in the country settle abroad or can not be found, the patent authorities and the courts of law shall appoint a curator to represent the owner of the patent.

SEC. 16. Against the inhabitants of those foreign States which do not recognize reciprocity in patent rights with respect to our citizens, the Minister of Commerce may order reprisals, which, however, he must communicate to Parliament.

CHAPTER III.

DURATION, EXPIRATION, WITHDRAWAL, AND ANNULMENT OF PATENTS.

SEC. 17. Patents are granted for a term of fifteen years, to be reckoned from the date of the application.

Patents of addition (Sec. 7) expire together with the original patent.

The duration of a patent of addition, which has become an independent patent, shall be reckoned from the date of the application for the original patent. A patent of addition which has become independent shall be considered as having taken the place of the original patent as regards the time at which the annuities become due and the amount of such annuities.

SEC. 18. A patent loses its validity :

- (1) By expiry.
- (2) By withdrawal or revocation.
- (3) By annulment.

SEC. 19. A patent expires:

- (1) At the end of the fifteenth year.
- (2) If the owner of the patent renounce it at the Patent Office in writing.
- (3) If the annuities due be not paid in time.

If the renunciation extend only to parts of the invention protected by the patent, the patent remains in force as to the remaining parts.

The patent ceases to be of force in consequence of expiration on the day following the day of expiration, in consequence of non-payment of the annuity on the day following the expiration of the term of delay allowed (Sec. 45) ; in consequence of renunciation on the day following the day of lodging the renunciation.

SEC. 20. A patent may be withdrawn or revoked as a whole or in part :

- (1) If the owner of the patent have neglected to work or use his invention within the countries of the Hungarian Crown, in substance and to an adequate extent, or if he have justifiably interrupted such working or use, or if he have not at least done all that is necessary, according to his own and the country's circumstances and conditions, for securing and continuing such working.

This withdrawal or revocation shall not, as a rule, take place until three years after the publication of the grant of the patent.

Exceptionally such withdrawal or revocation may take place at an earlier time, if the owner of the patent do not meet the demands of the country by working the invention in the country, or do not permit it to be done by granting licenses, and do not fulfill this obligation within a term appointed by the Patent Office under due consideration of the circumstances, notwithstanding that the invention is worked abroad and its working in the country is desirable with regard to the public interest. *In such cases, the Patent Office, when fixing the term, shall first warn the owner of the patent to work his invention, informing him of the reasons and drawing his attention to the consequences of his inaction.*

- (2) After three years from publishing the grant of the patent, if the owner of the patent do not work his patent to an extent adequate to the demand of the country and refuse to grant other trustworthy manufacturers in the country the necessary licenses for a suitable compensation and on good security, such compensation being determined by the Patent Office.

The withdrawal or revocation in both cases comes into force on the decision as to such withdrawal or revocation.

A patent granted to the State can not be withdrawn or revoked.

[NOTE.—The words in italics were inserted and other words were erased by Art. 4 of law 52 of 1908.

SEC. 21. A patent shall be annulled and therefore considered as not granted:

(1) If the subject matter of the patent be not patentable (secs. 1 to 3).

(2) If it be not granted to the true inventor or his successors (sec. 5).

(3) If the owner of an existing patent prove that the patent contested is identical with his prior patent.

(4) If it be proved that the specification of the patent is not so drawn as to set forth the substance of the invention—that is to say, the subject matter proper of the patent and the means for carrying it into effect—so fully and clearly that any person skilled in the art is enabled to make such subject matter on the basis of the specification (sec. 32).

If the above conditions be fulfilled only in part, a partial annulment may take place by restricting the patent.

SEC. 22. When a patent, in consequence of expiration, withdrawal, or annulment, has lost its validity the invention shall become public property and may be freely used by anyone within the limits of the existing laws and ordinances, provided that no other patent granted for the same invention shall prevent such use.

A patent which has lost its validity shall not come into force again.

CHAPTER IV.

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THE PATENT AUTHORITIES.

SEC. 23. The patent authorities are:

(1) The Patent Office.

(2) The Patent Senate.

The seat of the same is Budapest.

SEC. 24. The Patent Office consists of the president, vice president, permanent judicial and technical members and non-permanent judicial and technical members, who are appointed for five years and receive remuneration, and also of the acting officials and employees.

The president, the vice president, and the judicial members must have the qualification prescribed by section 7 of Law IV of the year 1869.

The qualification of the technical members is determined by section 10 of Law I of the year 1883.

The president, the vice president, and the permanent members are nominated by His Majesty on the recommendation of the Minister of Commerce; the non-permanent members and the acting officials and employees are appointed by the Minister of Commerce.

The Patent Office is under the supervision of the Minister of Commerce, who exercises this right directly and through the president of the Patent Senate.

SEC. 25. The Patent Office has two departments; these departments are the following:

(1) The application department.

(2) The judicial department.

The application department decides in meetings of three, namely, two technical members and one judicial member. The president of the Patent Office may not take part in the meetings of the application department.

The judicial department decides in meetings of five members, under the presidency of the president of the Patent Office or his substitute, two of them being members of the Patent Office qualified for a judgeship and two of them being technical members of the Patent Office.

Those members who took part in the decision appealed against may not take part in the session of the judicial department.

In general the corresponding prescriptions of the civil process rules are decisive as to exclusion of members from taking part in the decisions.

Each of the departments may officially appoint experts, who, however, have no right to vote.

The decisions are by majority.

The president may decide in non-meritorious matters.

All the decisions are announced in the name of the Patent Office and must be accompanied by reasons.

SEC. 26. The Patent Senate consists of the president, nominated by His Majesty on the recommendation of the Minister of Commerce and having the qualification determined by section 7 of Law IV of the year 1869, also of assessors nominated by His Majesty on the recommendation of the Minister of Commerce and chosen from the members of the Supreme Courts of Justice of the countries of the Hungarian Crown, these assessors being nominated for the whole time of their magistrature, and also assessors chosen from the professors of the Royal Hungarian Polytechnical University, the latter being nominated for a term of five years; finally the Patent Senate comprises the necessary number of officials and employees appointed by the Minister of Commerce.

The president has the same position, rank, and salary as a president of senate of the Royal Hungarian Supreme Court of Law, and he is subject to the provisions of sections 8 to 17 and 19 of Law IV of

the year 1869 and Law IX of the year 1871, with the modification, however, that the sphere of action reserved for the Minister of Justice in accordance with these laws is reserved to the Minister of Commerce as to the president of the Patent Senate.

The president of the Patent Senate is entitled to leave of absence for six weeks each year, as to which the rules of procedure shall give further details.

The assessors chosen from the members of the Supreme Courts of Justice receive a yearly remuneration of 500 florins.

The other members of the senate and the assistant officers and employees receive remunerations fixed by ordinance of the Minister of Commerce.

The senate gives its decisions in a meeting of seven members, under the presidency of the president or his substitute, four of them being judicial and two of them technical assessors.

As to disciplinary misdemeanor of the president and the assessor, and as to fixing the personal civil responsibility, and further as to the removal of the president provided for by Chapter II of Law IX of the year 1871, the decision is reserved to the disciplinary court for the magistrates of the Royal Hungarian Supreme Court of Justice of the same rank (sec. 104 of Law LIX of the year 1881). The assessors chosen from the professors of the Polytechnical University are held in this respect to be of the same rank as the judges of the Royal Supreme Court of Justice.

SEC. 27. Parties may appear personally before the Patent Office to argue their cases.

Only attorneys and officially authorized patent agents have the right to represent parties before the Patent Office.

In actions for annulment and withdrawal of patents the parties and the representatives of patentees residing abroad (sec. 15) must be represented by an attorney.

A license to act as a patent agent is granted by the Minister of Commerce after hearing the administrative authorities to such Hungarian subjects as can prove their technical knowledge by the diploma of a polytechnical university of the country or the diploma of a polytechnical university abroad (if such diploma be officially considered equivalent to the diploma conferred by the polytechnical universities of the country), and may be withdrawn by the Minister in the exercise of discipline.

These agents must undergo a special examination and take an oath.

The license must be registered in the patent agents' register of the Patent Office.

SEC. 28. The organization of the Patent Office, the rules for carrying on the business in the Patent Office and the Patent Senate, the scope of the examination of patent agents, the taxes to be paid for

such examination, the form of oath for patent agents, and the provisions for disciplinary proceedings against patent agents, shall be fixed by ordinance of the Minister of Commerce.

CHAPTER V.

PROCEEDINGS.

SEC. 29. The application for the grant of a patent for an invention must be lodged in writing at the Patent Office by the inventor, his successor, or authorized representative.

The priority of the application shall be judged according to the serial number of the register; when applications relating to the same subject matter are lodged simultaneously this circumstance must be noted.

SEC. 30. The application must contain:

(a) The name, the profession, and the residence of the applicant, and if the permanent residence of the applicant be abroad, the name and the residence of his representative residing in the country (sec. 15).

(b) The title of the invention to be patented, that is to say, the general name thereof, avoiding all description and particular name.

(c) The declaration that the applicant is the inventor of the matter to be patented or the successor of the inventor; and in the latter case further,

(d) The name, profession, and residence of the inventor, and also the designation of the document by which the applicant supports his rights.

SEC. 31. The application must be accompanied by:

(a) The receipt of the State treasury for the application fee.

(b) If the application be lodged by a representative, the corresponding power of attorney duly authorized.

(c) The description of the invention in duplicate in a closed envelope, on which the title of the invention, the name, and the residence of the applicant must be marked.

(d) If the applicant be the successor of the inventor, the document determining the assignment or transfer must also be lodged.

SEC. 32. The specification or description must answer the following requirements:

(1) It must enable persons skilled in the art or competent persons to carry out the subject matter of the invention on the basis of such description or specification without any amplification thereof.

In particular the specification must not contain any misleading ambiguities, nor must it keep secret anything relating to the means, the mode of working, or the particular operations necessary for suc-

cessfully carrying the invention into practice, nor must it name means or devices which are more expensive or have not the same effect.

(2) It must enumerate in one or more claiming clauses what is considered to be new and what the applicant wishes to have protected by patent.

If there be two or more claiming clauses, and the substance of the invention do not consist in the matters separately pointed out in the several claiming clauses but in the entirety or combination of the matters pointed out in all the claiming clauses, or in groups of such claiming clauses, this circumstance must be particularly mentioned.

Defects in the claiming clauses can not be remedied by other parts of the specification.

(3) It must be accompanied by the drawings necessary for its understanding and drawn in permanent colors, and in such form as shall be prescribed by ordinance, and also by models or samples, if it should prove necessary.

(4) It must be provided with the signature of the applicant or his representative.

Up to the publication of the application the applicant may make alterations in the specification and the claiming clauses.

The Patent Office decides as to the influence of such alterations upon the priority of the application.

SEC. 33. A member of the application department examines the application and causes the applicant to be requested to make necessary amendments if the requirements of sections 30 to 32 should not be fulfilled. If the applicant do not answer or comply with such request within the term allowed, or within an extension of such term allowed on the request of the applicant, the application shall be considered as withdrawn. But if he remove the defects objected to, or if he maintain his application, the latter shall be decided upon by the application department at a meeting.

If the application department find that the defects are not removed, or if the invention be not patentable in the meaning of sections 1 and 2 of this law, it shall reject the application.

The novelty of the invention is not officially made the subject of examination or decision.

The rejection of the application may be appealed against within fifteen days from the receipt of the rejecting decision before the judicial department.

SEC. 34. If the application department, or, in case of an appeal, the judicial department, consider the application to be in due order, and find that a patent may be granted for the invention, it shall order the application to be published and the opposition proceedings to be commenced.

The publication is effected by publishing once in the official gazette of the Patent Office the name, the profession, and the residence of the applicant and the subject matter of the invention, that is to say, what is desired to be protected by patent, together with the statement that within a term of two months from the day of publication oppositions may be entered against the application. Also it must be made known that the subject matter of the application is provisionally protected against unauthorized use (sec. 8).

On request of the applicant the publication may be postponed for not more than six months from the decision on the publication; a delay of three months can not be refused.

From the day of publication the specification, together with the annexed drawings, samples, and models, shall be open for public inspection.

If the patent have been applied for by the Government for the purposes of the army, militia, or navy, the opposition proceedings and the publication may be dispensed with on request of the Government.

SEC. 35. Within two months from the day of publication opposition may be entered against the grant of the patent.

The opposition must be lodged in duplicate at the Patent Office, and may only be based on the following reasons:

(1) That the invention is not patentable within the meaning of sections 1 to 3 of this law.

(2) That the specification does not fulfill the requirements pointed out in paragraphs 1 and 2 of section 32.

(3) That the invention does not lawfully belong to the applicant (secs. 5 and 6).

In cases 1 and 2 opposition may be entered by any person; in case 3 only by the party injured or his successors.

A copy of the opposition shall be handed to the applicant to enable him to reply thereto within the term determined by the Patent Office.

After the lapse of such term the application department of the Patent Office shall hear the parties, witnesses, and experts, and decide upon the grant, the restriction, or rejection of the patent, and as to the division of the costs incurred.

The opponent shall not be made to pay the costs of the applicant.

SEC. 36. The decision of the application department by which the application is rejected as a whole or in part may be appealed against by the applicant, and the decision, by which the patent is granted in its whole scope or in part thereof, may within thirty days be appealed against by the opponent before the judicial department, such appeal annulling provisionally the grant of the patent. The appeal must be lodged in duplicate, one copy being sent to the other party to enable him to reply thereto.

The judicial department decides on the basis of the appeal and the reply, and after hearing the parties and experts, if it so decide, upon the grant of the patent or the rejection of the application, and as to the division of the costs, such decision being final and exempt from any appeal or revision.

If the appeal has been lodged by the opponent he may be made to pay the costs caused by the appeal.

SEC. 37. When the decision upon the grant of the patent has come into force, the Patent Office shall issue letters patent to the applicant.

The withdrawal of the application, the grant, and the rejection of a patent shall be published without delay in the official gazette provided for such purposes.

The publication of the rejection of the patent or of the withdrawal of the application has the effect that the provisional protection (sec. 34) is considered as never having existed.

SEC. 38. The revocation and annulment of a patent can only take place on the ground of a complaint in writing.

The complaint must be lodged at the judicial department of the Patent Office.

Such complaint may be lodged by the party injured in the cases of paragraphs 2 and 3 of section 21, and by any person in the cases of section 20 and of paragraphs 1 and 4 of section 21. As regards the security for the costs to be deposited on request of the defendant, the provisions of sections 9 to 12 of Law XVIII of the year 1893 shall be applied, with the modification, however, that the amount of the security shall be determined by the judicial department of the Patent Office.

In actions for revocation and annulment of patents the provisions for the ordinary proceedings in commercial matters shall be applied unless otherwise prescribed by the present law.

The judgment of the judicial department may be appealed against within thirty days from the receipt of the decision before the Patent Senate, their decision being final.

SEC. 39. The Royal Courts of Justice and the administrative authorities shall comply with requests of the Patent Office and Senate.

The punishment of persons not appearing on summons or of witnesses and experts refusing to depose under oath is determined by the Royal Courts of Justice on request of the Patent Office.

The decisions of the Patent Office as to the costs of proceedings and penalties, when they have come into force, are public documents, and capable of judicial execution.

The oath taken before the Patent Office as well as the depositions of the witnesses and experts made before the same have the same force as if they had been made before a Royal Court of Justice.

SEC. 40. The authorities and courts proceeding in patent actions may punish parties carrying on actions frivolously with a fine not exceeding 1,000 kronen on behalf of the State treasury.

CHAPTER VI.

PATENT REGISTER, PATENT ARCHIVES, AND PATENT JOURNAL.

SEC. 41. The patent shall after its grant be registered without delay in the patent register of the Patent Office.

In this register shall be written the name, profession, and residence of the patentee, the name and residence of his representative, the title of the patent, the priority, the day of grant of the patent, the annuities paid, the data relating to expiration, revocation, and annulment of the patent, and, finally, the restriction of the patent in accordance with section 14 and the actions for revocation and annulment of the patent. Besides these data there may be noted in the patent register, on request of the interested parties and on the ground of public documents or fully trustworthy private documents, assignments of patents as a whole, or of parts thereof, or licenses for using such patents.

A transfer of the right of property in a patent is valid with respect to third persons only on the registration of the assignment in the patent register, but such prior transfer, although not registered in the patent register, is legally valid against a person who, at the time when he acquired a right to the patent, was aware of the fact of its previous transfer.

The registered licenses for working or using are not influenced in their validity by assignments of the patent.

The order of the registrations effected on the request of the interested parties shall be determined and judged in accordance with the provision of the second paragraph of section 29 of the present law.

SEC. 42. The specifications, drawings, models, and samples belonging to the patent, together with the legalized copies of the documents forming the basis of the registrations affected on request of the interested parties, shall be kept in the patent archives.

SEC. 43. The register of patents and the patent archives are open to all persons during office hours.

Any person is allowed to make at his own expense copies of the patent register and of the specifications, drawings, models, and samples, and to have them officially legalized.

With respect to patents for the purposes of the army, the militia, or the navy granted to the Government and not published (sec. 34), inspection or making copies of the specifications, drawings, models,

or samples is not allowed, except by permission of the Minister of Commerce in agreement with the other Minister interested.

SEC. 44. The applications lodged and ordered to be published (sec. 34), the patents granted, together with the specifications and drawings of the same, the titles of applications rejected on opposition, the assignment, expiration, withdrawal, or revocation, and annulment of patents shall be published in an official journal provided for this purpose.

The details as to the form and mode of publishing this journal shall be determined by ordinance of the Minister of Commerce.

CHAPTER VII.

TAXES.

SEC. 45. On application for any patent or patent of addition an application tax of 20 kronen must be paid.

For an alteration of the specification permitted by section 32 a fee of 10 kronen must be paid.

Moreover, for each patent the following annuities must be paid according to the desired duration of the protection:

	Kronen.		Kronen.
First year.....	40	Ninth year.....	160
Second year.....	50	Tenth year.....	200
Third year.....	60	Eleventh year.....	250
Fourth year.....	70	Twelfth year.....	300
Fifth year.....	80	Thirteenth year.....	350
Sixth year.....	100	Fourteenth year.....	400
Seventh year.....	120	Fifteenth year.....	500
Eighth year.....	140		

For a patent of addition which has not yet become an independent patent (sec. 17), besides the application tax a tax of 40 kronen must be paid once only for its whole period.

If the expenses of the Patent Office can not be covered by these taxes the Minister of Commerce may, by agreement with the Minister of Finance, increase such taxes by ordinance within three years from the day on which this law comes into force; such increase must not, however, exceed 50 per cent.

The annuities become due yearly in advance, and may be paid yearly or for several years or for the whole fifteen years at once.

The first year's annuity must be paid at the latest within sixty days of the day succeeding the day of publication of the application; otherwise the application is considered as withdrawn.

The annuities for the second up to the fifteenth year must be paid at the latest within sixty days of the day on which they become due.

If an annuity be paid more than thirty days after it has become due an additional fee of 20 kronen must be paid.

The annuities shall be accepted from any party interested in the existence of the patent.

Inventors who prove their poverty by a certificate of poverty duly executed, or who as laborers have to live upon their daily wage, may be granted a delay for the payment of the application tax and first year's annuity, and also for the fees to be paid for amendments, and if the patent lapse at the commencement of the second year the fees may be entirely remitted.

The application tax shall never be refunded, and the annuity only if the grant of the patent be refused.

SEC. 46. Besides the above taxes and fees a fee of 20 kronen must be paid in the following cases:

- (1) On appeal (secs. 36 and 38).
- (2) On application for revocation or annulment (secs. 20 and 21).
- (3) On a request for determining the compass or scope of an existing patent (sec. 57).
- (4) On registering the assignment of a patent (sec. 41).

All these fees must be paid before lodging the corresponding requests or petitions, and the receipt for such payment must be annexed thereto, otherwise the request or petition shall be rejected.

The fee named under 1 shall be refunded, if the appeal be successful. Persons such as are named in the last paragraph but one of section 45 may be exempted from paying the fees named under Nos. 1 to 3.

SEC. 47. The taxes and fees enumerated in this chapter shall be paid to the State Treasury or sent thereto in due time by post.

SEC. 48. The letters patent and other documents issued by the Patent Office, and also the requests relating to opposition (sec. 35), are exempt from stamp duty.

In all other respects the provisions as to stamp duty are applicable without alteration.

CHAPTER VIII.

INFRINGEMENTS AND PENALTIES.

SEC. 49. Any person who, without the permission of the owner of a patent, makes, puts on the market, or fraudulently uses the subject of such patent, so that he knowingly infringes the rights of the owner of the patent based upon this law, commits the transgression of "patent infringement," and shall be punished with a fine up to 600 kronen, and on repetition, if since the last judgment has come into force two years have not yet passed, with imprisonment not exceeding two months, in addition to a fine not exceeding 600 kronen.

The fines inflicted are applied for the benefit of the funds of trade, art, and commercial schools.

In adjudging the punishment it is considered an aggravating circumstance if the defendant be an employee of the owner of the patent, and avail himself of the knowledge and experience acquired in this way or by the confidence of the owner of the patent for infringing the patent.

These provisions shall also apply if the invention used be not yet patented but provisionally protected within the meaning of section 34.

SEC. 50. The transgression named in section 49 comes within the jurisdiction of the Royal Circuit Courts and the prosecution can only take place on request of the party injured.

The description of the invention deposited in the patent archives shall be considered as the sole and exclusive basis for judging in what the patented invention consists; therefore, no later interpretation not contained in such description may be taken into consideration.

If the interpretation of the description be questioned and the court find it necessary to hear experts, it shall ask the opinion of the Patent Office.

SEC. 51. On request of the injured party, made during the proceedings, it shall be announced in the sentence that the articles or parts found to be imitations or counterfeits, which are in the possession of the defendant, are to be confiscated, and that the devices and apparatus, which exclusively serve for carrying in effect the infringement, are at the expense of the defendant to be rendered unfit for such use.

The articles declared to be forfeited must be destroyed, if no other agreement be made between the defendant and the party injured.

If the articles be dangerous to the public safety, suitable measures shall be taken for avoiding such danger by the competent authorities on request of the Court of Justice.

SEC. 52. On request of the injured party, made during the proceedings, the Penal Court may simultaneously with the sentence pronouncing the penalty also adjudge to the injured party an indemnity, due to the latter on account of his private or civil right, such indemnity being determined by the Court of Justice as it may think right under consideration of all circumstances and not exceeding 20,000 kronen; or the Court of Justice may refer the injured party to the civil proceedings on the question of indemnity. If the Penal Court have determined an indemnity on request of the injured party, no further indemnity may be claimed in civil proceedings. If the injured party claim an indemnity exceeding 20,000 kronen, he shall

be referred to civil proceedings for the whole amount of indemnity claimed.

On request of the injured party, made during the proceedings, it shall further be ordered that the sentence as a whole, together with the grounds thereof, be published in newspapers at the expense of the defendant. The mode and time of publication shall be prescribed in the sentence, the requests of the party injured being considered.

If more than one person be condemned for the same infringement, the condemned are liable as joint debtors for the indemnity.

SEC. 53. The injured party has the right to request, after the sentence is passed, the seizure and detention, and such other measures as are adapted to prevent a repetition of the infringement with respect to the articles, devices, and apparatus named under section 51.

The Court of Justice decides at once upon such requests, and if the infringement appear probable, it orders the seizure or other preventive measures without conditions, or with the condition that a security be deposited by the injured party.

During the proceedings the preventive measures may be revoked without conditions, or on condition that the defendant deposit a security.

SEC. 54. If during the penal proceedings a question be raised, which according to the provisions of the present law must be decided by an action for revocation or annulment of the patent, which action is within the competency of the Patent Office or the Patent Senate, the Court of Justice, suspending the penal proceedings, shall appoint a term for commencing such action. If it be proved that the demand for withdrawing or revoking or annulling has been lodged within the term appointed, the court shall await the decision and shall base its own decision thereon, otherwise the penal proceedings shall be continued.

In such cases the penal court may decide that, until the arrival of the decision of the patent authorities, the seizure already effected shall be maintained without conditions or on condition that the injured party deposit a security.

SEC. 55. To the transgression of infringement of patents the general rules of the proceedings in transgression cases shall apply, unless the present law contain special regulations.

These transgression cases shall be proceeded with out of order, and the provisions of section 7 of the Law VI of the year 1883 restricting further appeal against the sentence of the second instance do not apply thereto.

SEC. 56. Acts committed in obtaining, assigning, using, or working patents which constitute the substance of a crime or misdemeanor

named in the penal code must be judged in accordance with the penal code.

If the act constitute a crime or misdemeanor contrary to the penal code, and a transgression contrary to the present law, the penal code and this law shall apply in separate proceedings.

SEC. 57. A person who is apprehensive of the commencement of an action for infringement has the right to request the patent authorities to decide, by prior judgment, that the article made or used by him, or the process employed by him, is not an infringement of a patent named by him.

Such request shall be lodged at the Patent Office in duplicate, and be accompanied by a description of the article to be made or of the process to be used. One of the copies shall be handed to the owner of the patent with the notice that he may lodge a reply to this request at the Patent Office within the term allowed.

The request is gone into by the judicial department of the Patent Office, and is decided after hearing the parties, and also experts, if required. The applicant bears the costs.

The decision of the judicial department may be appealed against before the Patent Senate within thirty days.

A decision of prior judgment in favor of the applicant excludes infringement proceedings relating to the same matter against the person on whose request such prior judgment was given.

Proceedings for prior judgment shall not be requested by persons against whom an action for infringement of the same patent is pending before the Penal Court.

SEC. 58. The party injured by an infringement may prosecute his claims for recognition of his patent rights, for cessation of the infringement, and for indemnity against the infringer in civil proceedings:

(a) If he do not request a commencement of penal action or if he withdraw such request.

(b) If he have not claimed indemnity at the Penal Court.

(c) If he be referred by the Penal Court to civil proceedings for indemnity.

(d) If penal proceedings can not be entered into on account of the death of the infringer, or on account of the liability to punishment having ceased by reason of proscription or for other reasons.

The party injured may claim recognition of his patent rights, cessation of the infringement, and indemnity, even if the offender be not subject to any penal responsibility. In such case the indemnity shall not exceed the profit obtained by the infringement.

In proceeding in such actions the provisions of paragraphs 2 and 3 of section 50 and sections 51, 53, and 54 of this law shall apply.

The right to indemnity expires: .

(1) After three years from the date on which the injured party became aware of the infringement.

(2) After ten years from the date on which the infringement was committed, even if it have never come to the knowledge of the injured party or even if the three years have not elapsed from the day on which it came to the knowledge of the injured party.

SEC. 59. The actions for indemnity mentioned in sections 14 and 58 of this law, actions relating to the rights of property in patents, and litigations relating to patents—except litigations as to succession—are within the jurisdiction of Courts of Justice as Courts of Commerce, unless they be within the jurisdiction of the patent authorities in accordance with this law.

CHAPTER IX.

TRANSITORY AND FINAL PROVISIONS.

SEC. 60. From the day on which this law comes into force the provisions thereof shall apply to every application for a patent not yet finally decided upon. The patent taxes already paid shall be refunded only if the application be withdrawn, otherwise the patent shall be issued only after paying the difference of the taxes when the taxes under the new law are higher than those under the old law.

SEC. 61. On the day on which this law comes into force all the patents, the specifications of which were kept secret, shall be considered as open, except in the cases mentioned in the last paragraph of section 34.

SEC. 62. On the coming into force of this law, the provisions of Chapters II and IV, of sections 38 to 40 of Chapter V, of Chapter VI, of paragraphs 8, 9, and 10 of section 45 of Chapter VII, and further of sections 46 to 48 of the same chapter, of Chapter VIII, and of section 61 of Chapter IX shall also be extended to the patents granted before this law shall come into force. Moreover, old patents shall remain subject to the provisions which existed at the time when they were granted.

SEC. 63. As to patents to be granted to citizens of the other kingdoms and countries of His Majesty, or of Bosnia and Herzegovina, or to persons who may reside in these countries or have establishments in the same, Article XVI of the Commercial and Tariff Union, modified by Law XLI of the year 1893 and section 9 of Law LII of the year 1879, shall apply.

The provisions of treaties of the State differing from this law are not influenced thereby.

SEC. 64. The date at which this law shall come into force shall be determined by the Minister of Commerce in agreement with the Minister of Justice and the Ban of Croatia, Slavonia, and Dalmatia.

SEC. 65. The execution of this law is intrusted to the Ministers of Commerce, of Justice, and of Finance, and for Croatia and Slavonia, the Minister of Commerce and Finance, and the Ban of Croatia, Slavonia, and Dalmatia.

[Law concerning the accession of the countries under the Holy Hungarian Crown to the International Union for the Protection of Industrial Property (so far as it is not embodied in the text of the law above and does not consist of merely temporary provisions).]

ARTICLE I. The Ministry is authorized to take the measures necessary on the occasion of the accession of the countries under the Holy Hungarian Crown to the arrangements set out in the documents below which regulate the international union for the protection of industrial property.

ART. II. The documents referred to in the preceding article are as follows: (Here follows the French text with a translation into Hungarian, first of the International Convention for the Protection of Industrial Property of the 20th of March, 1883; second, of the Arrangement concerning the international registration of manufacturing and commercial marks of the 14th of April, 1891; third, of the Protocol concerning the maintenance of the International Bureau of the Union for the Protection of Industrial Property of the 15th of April, 1891; fourth, of the Additional Act of the 14th of December, 1900, modifying the Convention of the 20th of March, 1883, and of the Protocol thereto annexed; fifth, of the Additional Act of the 14th of December, 1900, to the Arrangement of the 14th of April, 1891, concerning the international registration of manufacturing and commercial marks.)

ART. III. The rights of priority accorded to residents in the contracting States by Article 4 of the International Convention of the 20th of March, 1883, modified by the Additional Act of the 14th of December, 1900, shall be expressly claimed at the time of the lodging in Hungary of the application for a patent * * * in default of which priority shall be decided according to the date of lodging in this country.

An ordinance of the Minister of Commerce shall determine the documents necessary to establish the right of priority claimed and shall state at what time such documents shall be lodged.

The rights of priority accorded by Article 4 of the Convention of the 20th of March, 1883, modified by the additional act of the 14th of December, 1900, can not be claimed in this country by natives on the ground of an application made abroad.

* * * * *

ART. V. The Ministry is authorized to pronounce effective in the countries under the Holy Hungarian Crown, dating from the 1st of January, 1909, the conventions agreed to in the documents set out under Article II of this law and to take the measures necessary for their execution.

* * * * *

HUNGARY—WAR LEGISLATION.

[DECREE OF 12TH AUGUST, 1914.]

In virtue of section 16 of Section No. LXIII of 1912, concerning exceptional measures to be taken in case of war, the Hungarian Ministry decrees as follows:

1. There is granted for the payments of money debts due or becoming due up to September 30, inclusive, and resulting from a bill of exchange, commercial transaction, a check or a warrant given before the 1st August, 1914, or in general any transaction involving commercial rights, or any kind of private right being in existence before the 1st August, 1914, a moratorium delay of two months, the duration of this delay starts from the date of default, and if this was before the 1st August, 1914, the delay will be counted from this latter date.

SEC. 6. The moratorium delay granted under section 1 also extends to annual taxes for patents.

SEC. 15. The present ordinance comes into force 15th August, 1914.

HUNGARY.

[ORDINANCE NO. 70364 OF 21 SEPTEMBER, 1914.]

The third line of section 34 of Article XXXVIII of the law of 1895 is replaced by the following:

At the request of the applicant the publication of the patent application may be withheld one year or more, counting from the decision ordering the publication. A postponement of three months can not be refused.

The present decree comes into force immediately.

PATENTS—TAXES—MORATORIUM—INSTRUCTIONS OF OCTOBER 14. 1914.

[Translation.]

[INSTRUCTIONS FURNISHED BY THE HUNGARIAN ADMINISTRATION OF DATE
OCT. 14, 1914.]

By ordinance of the Government (for notice of which see 12 P. & T. M. Rev., 356) there has been granted for the payment not only of taxes due on patents but also for those not yet due, an extension until

November 30 next (1914—Ed.) and which, in all likelihood, will be prolonged in case of necessity.

By reason of circumstances our office extends the greatest tolerance in whatever concerns applications for the extensions established by the regulations in the procedure for the delivery of patents, and, whenever the non-compliance with an extension shall be evidenced competently, its effects may be voided by means of a request indicating the excuses of the party interested.

The Patent Office will not consider, during the course of the war, matters emanating from the countries of enemies. Therefore non-fulfillment of a delay in procedure is not contemplated. It will be treated probably, in this connection, according to the rules of reciprocity.

(From *La Propriété Industrielle*, October, 1914.)

[DECREE OF ROYAL HUNGARIAN MINISTRY NO. 8680, OF 30TH NOVEMBER, 1914.]

1. The moratorium delay granted by the ordinance of 30th September, 1914, No. 7205 of 1914, for accomplishing obligations of private character, is prolonged until 31st January, 1915, in so far as it concerns all money debts which the present ordinance does not exclude from the moratorium.

SEC. 3. The moratorium term granted by section 1 applies equally to annual taxes for patents.

SEC. 4. The present ordinance may be referred to as the fourth ordinance relative to moratorium, and comes into force December 1, 1914.

PATENTS—TAXES—PROLONGATION OF TERM.

We note from a decree of the Royal Hungarian Ministry, dated November 30, 1914, that the moratorium decreed August 12, 1914 (for notice of which see 12 P. & T. M. Rev., 356), and extending to November 30 (for notice of which see 13 P. & T. M. Rev., 72), was again extended to January 31, 1915.

Section 3 relates to the prolongation of the term for the payment of patent taxes to the above-stated term.

(From *Oesterreichisches Patentblatt*, Dec. 15, 1914.)

INDUSTRIAL PROPERTY—STAMP TAX—INCREASE POSSIBLE.

We are indebted to Dr. S. Szilasi, of Budapest, for the information that commencing January 1, 1915, a new law pertaining to stamp taxes became operative, in accordance with which requests, docu-

ments, inclosures, etc., are subject to increased stamp duty. Inasmuch as this law does not contain any specific reference, whereby its provisions are also applicable to patent, design, and trade-mark matters, there prevails in the legal profession the view that, for the present at least, the former stamp duty is still in force in respect of industrial matters.

PATENTS—PAYMENTS OF TAXES—PROLONGATION OF TERM—DECREE OF
JANUARY 10, 1915.

[Translation.]

Decree No. 87021 of 1914 of the Minister of Commerce relating to the prolongation of the terms for the payment of annual taxes as stipulated in section 45 of the patent law.

By virtue of the authorization conferred upon me in accordance with section 16 of Article 63 of the law of 1912, relating to exceptional provisions in case of war, I decree, in accordance with the decree No. 6981 of 1914, of the Royal Hungarian Ministry, the following provisions:

SECTION 1. The terms for patents of invention stipulated in section 45 of Article 37 of the law of 1895, relating to the payment of annual taxes are prolonged in such a manner that for the period commencing August 1, 1914, to April 30, 1915, the course of the terms fixed for the payment of annual taxes and fines is suspended.

Therefore, the annual tax for those patents, the annual tax for which was not debited as yet on August 1, 1914, may still be paid without fine after April 30, 1915, within as many days as there still remain of the 30 days stipulated for the payment without fine, after deducting the days expired prior to August 1, 1914, and within an additional 30 days, but if so, only with a fine.

On the other hand, the annual tax for those patents, the annual tax for which has been already debited prior to August 1, 1914, with a fine, may be only paid with a fine, namely, within as many days reckoned from May 1, 1915, as there still remain unexpired of the 30 days stipulated for the payment with a fine, after deducting the days expired prior to August 1, 1914.

SEC. 2. The acts of grace granted in the present decree are applicable to foreigners only if the State of the foreigner in question grants similar privileges to Hungarian subjects, and when this fact is published in the official journal.

SEC. 3. This decree becomes operative on the day of its publication.
Budapest, January 10, 1915.

(Signed) BARON JANOS HARKANY,
Royal Hungarian Minister of Commerce.

TRADE-MARKS—RENEWALS—EXCEPTIONAL RULES IN FORCE DURING
THE WAR—DECREE OF DECEMBER 31, 1914.

[Translation.]

Decree of the Royal Hungarian Minister of Commerce of December 31, 1914, relating to the prolongation of the terms stipulated in Article 2 of the law of 1890, and Article 61 of 1895, and pertaining to the protection of trade-marks.

On the ground of the authorization contained in section 16 of Article 3 of the law of 1912, providing for the issue of exceptional rules in case of war, the following is decreed:

SECTION 1. The term extended to February 1, 1915 (for text of which see 13 P. & T. M. Rev., 41), for the renewal of marks, the term of protection for which in accordance with the decree of October 21, 1914, expires during the period July 26, 1914, to December 31, 1914, is prolonged to August 1, 1915.

SEC. 2. A term expiring up to August 1, 1915, is allowed for the renewal of marks, the protection for which expires during the period January 1, 1915, to June 30, 1915.

SEC. 3. Sections 2 to 6 of the decree of October 21, 1914, No. 76311 shall likewise be made correspondingly applicable until further notice.

SEC. 4. This decree becomes at once operative.

(From *Oesterreichisches Patentblatt*, Feb. 1, 1915.)

TRADE-MARKS—RENEWALS—EXCEPTIONAL RULES IN FORCE DURING
WAR.

We are advised by one of our Hungarian correspondents that a decree was published on October 24, 1914, the essential provisions of which are given below:

A term extending to February 1, 1915, is granted for the renewal of trade-marks, the term of protection of which expires within the period commencing July 26, 1914, to December 31, 1914.

The new ten-year term of protection of a mark renewed on the ground of the above provision commences from the day on which the mark should have been renewed according to the provisions of the trade-mark law.

When a mark to which the above-mentioned term is applicable has been annulled, the annulment shall be made retroactive provided that application for the renewal of the mark is made before February 1, 1915.

The term of two years provided for in the law for the protection of trade-marks for the filing of motions for annulment is abrogated for such a length of time as a state of war exists.

The provisions of this decree are applicable only to countries granting reciprocity, which fact will be published in the *Official Journal*.

PATENTS—DESIGNS—TRADE-MARKS—FOREIGN—PROCEDURE—WAR
MEASURES—ORDINANCE NO. 81586—1914 OF JANUARY 13, 1915.

[Translation.]

Ordinance of the Ministry of Commerce concerning the application of the exceptional measures established by the ordinance No. 9146—1914 for the procedure to be followed with regard to subjects of foreign countries in contested and uncontested matters relating to patents, trade-marks, and designs. (No. 81586—1914, of Jan. 13, 1915.)

By virtue of the power vested in me by section 16 of Article LXIII of the law of 1912 concerning the exceptional measures applicable in case of war, I decree as follows:

SECTION 1. The provisions of the ordinance No. 9146—1914 concerning the exceptional measures applicable to civil procedures in contested and uncontested cases, which measures have been rendered necessary by reason of the war, shall be applicable also to procedures in the matter of patents, trade-marks, and designs.

Said provisions shall be applicable to subjects of foreign countries only when the country of origin of the foreigner in question accords Hungarian subjects the same privileges and if such fact is announced by a notice published in the *Budapesti Közlöny*.

SEC. 2. This ordinance shall go into force immediately.

(From *Oesterreichisches Patentblatt*, in 213 O. G., 363.)

TRADE-MARKS—RENEWALS—PROLONGATION OF TERMS—WAR
MEASURES.

[Translation.]

Decree of the Royal Hungarian Minister of Commerce of June 28, 1915, in the matter relating to the prolongation of terms fixed in Article 2 of the law of 1890 and 41 of the law of 1895 for the protection of trade-marks.

By virtue of the authorization, obtained on the ground section 16 of Law Article 63 of the year 1912, to decree exceptional measures in the event of war, I decree, as implied by the decree issued by the Royal Hungarian Ministry No. 6981—1914, as follows:

ARTICLE 1. For the renewal of marks that should have been renewed after July 26, 1914, or that should have been renewed in order to maintain protection, I grant a prolongation up to three months reckoned from the day to be fixed by a later decree.

ART. 2. Articles 2 to 6 of my decree of October 21, 1914, No. 76311, shall likewise find corresponding application in future.

ART. 3. This decree becomes operative on the day of its publication.

Commencing from this day this present decree replaces Article 1 of the decree of October 21, 1914 (see 13 P. & T. M. Rev., 41), and decree of December 31, 1914 (see 13 P. & T. M. Rev., 172).

(From *Oesterreichisches Patentblatt*, July, 1915.)

INDUSTRIAL PROPERTY—PROLONGATION OF CONVENTION TERMS—WAR
MEASURE—DECREE OF DECEMBER 1, 1915.

[Translation.]

Decree of the Royal Hungarian Ministry of Commerce of December 1, 1915, No. 81250-1915, relating to the prolongation of the terms fixed in Article 4 of the Paris Convention.

By virtue of the authorization contained in section 16 of Article 63 of the law of 1912, regarding exceptional measures to be taken in the event of war, I decree, as implied by the decree of the Royal Hungarian Ministry, No. 6981-1914, as follows:

SECTION 1. The terms of priority fixed in Article 4 of the Paris Convention of March 20, 1883, for the protection of industrial property, revised at Brussels December 14, 1900, and at Washington June 2, 1911, and having reference to patent, design, and trade-mark applications, in so far as these terms have not expired prior to June 26, 1914, are prolonged for three months, commencing from a day to be fixed by a later decree.

This provision is applicable only in favor of citizens of other countries not belonging to the International Convention for the protection of industrial property if these countries prolong the priority terms in favor of Hungarian subjects. If, however, any of these countries do not grant this privilege to Hungarian subjects to the extent as mentioned in the first section, a proportionate restriction shall be applicable in respect of the citizens of the countries in question.

A notice to be published in the official journal will determine to what an extent the terms of priority are prolonged in favor of citizens of other countries in accordance with the provisions of the second paragraph.

SEC. 2. If the applicant has been prevented through war events from observing any of the priority terms for patent, design, and trade-mark applications, as fixed by Article 4 of the Paris Convention, revised at Brussels December 14, 1900, and at Washington June 2, 1911, he may overcome the consequences of his neglect by a plea in justification.

This provision likewise applies to the terms that have already terminated prior to the coming into force of this decree.

The plea in justification, if it be allowed, shall be to the effect that the application is to be considered as having been filed in due time within the priority term.

The plea in justification shall be filed within three months from the time that the obstacle has ceased to exist, or, in the event that the obstacle ceased to exist prior to the day of the notification mentioned in the fifth subsection, it shall be filed within three months, reckoned from this day. However, this plea shall be filed under any circumstances not later than three months from the day to be fixed later on by decree. The application shall be filed simultaneously with the plea in justification. The application division of the Royal Hungarian Patent Office shall pass on the plea in respect to patent matters and the Royal Hungarian Minister on design and trade matters, to whom the petitions are to be submitted that have been filed with the Chamber of Commerce and Trade.

These provisions are operative in favor of citizens of countries other than those adhering to the International Convention for the Protection of Industrial Property only in connection with such kind of applications, for which a similar favor is granted in those countries to Hungarian subjects according to a notification to be published in the *Official Journal*.

SEC. 3. The applicant shall be considered as a citizen of that country wherein he has his domicile, if he does not prove citizenship that would secure for him another more favorable procedure.

SEC. 4. The decree shall come into force on the day of its publication (Dec. 3, 1915).

(From *Blatt für Patent, Muster und Zeichenwesen*, Jan. 26, 1916.)

PATENTS—TAXES—PROLONGATION OF TERM—WAR MEASURE—DECREE
OF DECEMBER 23, 1915.

(Translation.)

Decree No. 87639-1915 of the Royal Hungarian Minister of Commerce of December 23, 1915, relating to the prolongation of terms for the payment of annual patent taxes.

ARTICLE 1. The decree No. 54400-1915 of August, 1915 (14 P. & T. M. Rev., 67), communicated by circular letter of August 23, 1915, according to which the term for the payment of annual patent taxes and fines was prolonged to December 31, 1915, has been amended, so that the term of this moratorium is prolonged to June 30, 1916.

The remaining provisions of the cited decree remain unaltered.

ART. 2. The present decree becomes effective on the day of its publication (Dec. 28, 1915).

[NOTE.—This decree is applicable to citizens or subjects of the following States: Denmark, Germany, France, Great Britain, Italy, Norway, Austria, Sweden, Switzerland, Spain, and United States.]

PATENTS—APPLICATIONS—PUBLICATION—OPTIONAL POSTPONEMENT—
DECREE (AMENDATORY) OF APRIL 9, 1916.

(Translation.)

By virtue of the power conferred by Article 16 of Legislative Article 63 of 1912, concerning the exceptional measures to be taken in case of war, and in conformity with the provisions of the decree of the Royal Hungarian Ministry, I order as follows:

Paragraph 3 of Article 34 of Legislative Article 38 of 1895 shall consist of the following provision: "On petition of the applicant the publication of the application for patent may be delayed until a date that shall be fixed by the Ministry of Commerce after the conclusion of the war."

The present decree shall become of effect immediately and abrogates decree No. 70364, of September 21, 1914.

(From 15 *Bollettino della Proprietà Intellettuale*, Fasc. 15 and 16, p. 93.)

PATENTS—TAXES—PROLONGATION OF TERM—WAR MEASURE—DECREE
No. 41351 OF JUNE 19, 1916.

[Translation.]

Decree of the Royal Hungarian Minister of Commerce concerning the prolongation of the term for the payment of the taxes established by section 45 of legislative Article 37 of 1895 concerning patents of invention.

By virtue of the power conferred by section 16 of legislative Article 43 of 1912, concerning exceptional measures to be taken in case of war, and agreeably to decree No. 6981-1914 M. E. of the Royal Hungarian Minister,

I decree as follows:

ARTICLE 1. The provision of my decree No. 87639 of December 23, 1915, by the terms of which the terms for the payment of patent taxes and fines were suspended until June 30, 1916, is amended in the sense that the duration of this suspension is prolonged until December 31, 1916.

Otherwise my above-cited decree remains in force without modification.

ART. 2. The present decree shall become effective from the date of its publication.

Budapest, June 19, 1916.

(Signed) JEAN HÁRKÁNYI,
Royal Hungarian Minister of Commerce.

(From 32 *La Propriété Industrielle*, 78, July, 1916.)

[NOTE.—This decree is applicable to citizens or subjects of the following countries: Denmark, Germany, France, Great Britain, Italy, Norway, Austria, Sweden, Switzerland, Spain, and United States.]

INDUSTRIAL PROPERTY—PROTECTION—RESTRICTION OR ANNULMENT—
“WAR MEASURE.”

Decree of the Royal Hungarian Ministry of August 15, 1916, No. 2706-1916, relating to reprisals in respect of the preventive measures taken in matters pertaining to the protection of industrial property by the individual alien countries.

The Royal Hungarian Ministry, by virtue of the authorization received under the laws enacted for the taking of exceptional measures in the event of war, decrees as follows:

ARTICLE 1. The Royal Hungarian Minister of Finance may upon application and in the public interest restrict and annul the rights of protection of patents and designs of subjects of France and Great Britain, but may only restrict the trade-mark rights. The Minister may in particular to these rights grant other rights of use subject to conditions stipulated in his decision.

The decision of the Ministry rendered on the ground of the first paragraph becomes operative, provided that it does not contain in this respect a decision to the contrary, on the day of its decree, and retroactive power may be given thereto. The decision of the Ministry is likewise operative against the successors to the rights of those qualified (owners of patents, and those entitled to design and trade-mark rights), against whom it was rendered.

The decision of the Ministry rendered on the ground of the first paragraph may, in so far it does not contain a contrary decision, be modified or revoked at any time.

The transfer of the grant for the utilization conceded in accordance with the first paragraph requires, in order to be valid, the approval of the Royal Hungarian Minister of Finance, except in the case when the grant of use is transferred to the military or any other governmental administration (governmental undertakings included) or is transferred by the same to others.

The Treasury of the State enforces by legal means the compliance with conditions, upon which the grants for the utilization that were conferred in accordance with the first paragraph are conditioned, against the party entitled to the use or his successor to the right.

Sums of money that are to be paid, as implied by the decision of the Royal Hungarian Minister of Commerce, shall be paid into the Royal Hungarian States Treasury of the Patent Office. The Royal Hungarian Minister of Commerce, with the consent of the Royal Hungarian Minister of Finance, will make provisions regarding these sums of money.

ART. 2. The Royal Hungarian Minister of Commerce may on application restrict or annul the patents of Russian subjects without regard to public interest. The Minister may concede other grants for utilization, subject to conditions stipulated in his decision, particularly so in respect of these rights.

The provisions of the second paragraph of Article 1 are to be applied accordingly.

ART. 3. An application filed on the ground of Articles 1 or 2 shall be rejected when it is proved that:

1. A person having as a joint owner an interest in the right is not a subject of one of the belligerent countries cited in Articles 1 and 2, or

2. That regarding the rights in question the exclusive right of utilization belongs to a person not a subject of one of the cited belligerent countries, and the legal conditions, be it in the case of No. 1 or No. 2, have obtained prior to the day on which the state of war with the State in question occurred (Art. 8), or when the right of use was acquired subsequently to the entry of the state of war up to the time of the enforcement of this decree, provided the legal procedure taken in respect thereof was not a fraudulent procedure.

Application for the right of use coming under the provisions of No. 2, which is not recorded in the register, may be filed with the Royal Hungarian Minister of Commerce for the purpose that said right may be considered in the sense of No. 2.

ART. 4. The Royal Hungarian Minister of Commerce may, upon application and in the public interest, decree the annulment of the rights of protection of patents existing in favor of subjects of France, Great Britain, and Russia.

The decision of the Ministry rendered on the ground of the first paragraph becomes operative, provided that the decision in question does not contain a contrary decision, on the day it is rendered and may be given retroactive force.

ART. 5. The procedure in dealing with applications mentioned in paragraph 1 of Article 1, paragraph 1 of Article 2, and paragraph 1 of Article 4 is as follows:

1. The application shall be filed in writing with the Royal Hungarian Minister of Commerce. To the application and its accompanying instruments there shall be attached so many copies that each interested party may be provided with a copy.

If the application be not filed by the military or any other governmental administration (inclusive governmental enterprises), the applicant shall pay into the treasury of the Royal Hungarian Patent Office, for each right to which his application has reference, a fee of 50 kronen.

2. The Royal Hungarian Minister of Finance may reject the application without instituting proceedings. In this case the fee of 50 kronen, paid in conformity with the preceding paragraph, shall be refunded to the applicant.

The Royal Minister of Commerce, if he institutes the proceedings, charges the Royal Hungarian Patent Office with the conclusion of the proceedings.

3. The President of the Royal Hungarian Patent Office charges a member of the office with the preliminary preparation of the case, who hears the interested parties orally or in writing and takes the necessary proof.

The member so charged requests, upon communicating copies of the application and accompanying instruments thereof to the party entitled, against whom the action is taken, or if he be not domiciled within the domains, his representative residing therein, that he file a response with the member so charged regarding the application within a term fixed in the request. If the party entitled to the right does not reside in the interior and has no local representative his testimony shall be omitted.

The member so charged requests the known interested parties residing within the domains in a communication to be delivered, but the interested parties, either unknown or domiciled in a foreign country, through a notification to be published once in *Szabadalmi Közlöny*.

The rules of practice in patent litigation is determinative for establishing proof.

The member so charged draws up a protocol regarding the proceedings which he submits to the president accompanied by a report.

4. The president submits the matter, upon the appointment of a referee, to the judicial division of the Royal Hungarian Patent Office. The referee may be also the member so charged. In the cases determined in Article 3 the question of rejection of the application is decided by the judicial division. An appeal may be lodged from this decision with the Royal Hungarian Patent Senate in accordance with the rules governing proceedings in patent litigation.

If the judicial division of the Royal Hungarian Patent Office does not determine upon the rejection of the application on one of the grounds stipulated in Article 3, it decrees to this effect and prepares a suggestion regarding the decision to be rendered by the Royal Hungarian Minister of Commerce in accordance with Articles 1, 2, or 4.

The Royal Hungarian Patent Office submits the instruments, together with its suggestion, to the Royal Minister of Commerce, as soon

as the decision mentioned in the preceding paragraph has become legally operative.

5. The proceedings may be continued on the part of the office, in the event that the application for the annulment of the patent or design right is withdrawn.

6. The costs of procedure and representation are borne by each party.

7. The Royal Hungarian Minister of Commerce communicates his decision in accordance with the provisions contained in No. 3 of paragraph 3 of the same article to the parties interested.

8. The application and its final disposition, as well as the transfer of the consent to the use given shall be noted upon the register (register for patents, trade-marks, or designs), and if a patent is concerned, notice shall be published in *Szabadalmi Közlöny*; if, however, a trade-mark or a design is involved, publication shall be made in *Központi Védjegyértestő*.

ART. 6. The grant of patents to subjects of France, Great Britain, Italy, and Russia remains suspended. Applications for patents that emanate from subjects of these cited countries shall not be accepted.

The President of the Royal Hungarian Patent Office may decide whether the proceedings, subject to the maintenance of the decree contained in the first paragraph, in respect of patent applications of subjects of the mentioned countries, shall be further suspended, and if so to what an extent, regarding patent matters in which the subjects of the countries mentioned in paragraph 1 are interested.

The registration of designs and trade-marks for subjects of France, Great Britain, Italy, and Russia remains suspended. Applications for the registration of designs and trade-marks from subjects of these countries shall not be accepted.

The provisions of these paragraphs are not applicable to such patent, design, and trade-mark applications, in which as a joint applicant a person is interested who is not a subject of a country designated in paragraph 1, if the legal conditions have been met prior to the day on which the state of war was entered into with the country in question (sec. 8).

ART. 7. The provisions of Article 6 are also applicable, subject to the restrictions contained in paragraph 2 of Article 3, to such rights and applications, which have been transferred by subjects of the belligerent countries in question to subjects of other countries or to natives subsequent to the day on which the state of war was entered into with the country in question (Art. 8).

The operation of the provisions of this decree shall not be precluded by the fact that a subject of another country has been substituted, in order to conceal the nationality of an enemy country.

ART. 8. August 5, 1914, shall be considered as the day on which the state of war commenced in respect of Russia; August 13, 1914, in respect of France and Great Britain; and May 24, 1915, in respect of Italy.

ART. 9. Subjects of the colonies and possessions of the countries mentioned in this decree are placed on a par with the subjects of the enemy countries in question.

ART. 10. Every person, as long as the same does not prove anything to the contrary, shall be considered a subject of the country, its colony or possession in which territory he has his domicile.

Juridical persons and companies will be dealt with like the subjects of the country, the colony or possession thereof in which territory they are situated. In so far as the rights designated in paragraphs 1, 2, and 4 are concerned, there shall be placed on a par with the subjects of France, Great Britain, and Russia such enterprises or branch establishments of enterprises operative within a territory where this decree is in force, that are conducted or supervised from these countries, their colonies or possessions, or the profits from which are as a whole or in part remitted thereto, or the capital of which is wholly or partially owned by subjects of these countries, their colonies or possessions, wherever they are domiciled, regardless of the fact whether or not the enterprises or branch establishments are subjected to supervision or to another restriction on the part of the authority.

ART. 11. This decree becomes operative on the day of its publication. Its operation extends to the whole territory of the countries of the Hungarian sacred Crown.

(From *Oesterreichisches Patentblatt*, 1916; reprinted in *Blatt für Patent, Muster und Zeichenwesen*, Sept. 27, 1916.)

PATENTS—TAXES—FURTHER EXTENSION OF TERM FOR PAYMENT—
“WAR MEASURES”—DECREE NO. 91,621 OF DECEMBER 20, 1916.

[Translation.]

Decree of the Royal Hungarian Minister of Commerce concerning the prolongation of the term for the payment of the annual taxes fixed by section 45 of the thirty-seventh legislative Article of 1895 concerning patents of invention.

By virtue of the power conferred by section 16 of the sixty-third legislative Article of 1912 concerning exceptional measures to be taken in case of war, and in accordance with the decree of the Royal Hungarian Minister of Commerce, No. 6981-1914, I decree as follows:

ARTICLE 1. The provision of my decree of June 19, 1916, according to the terms of which the course of the terms for the payment of the annual patent taxes and additional taxes has been suspended

until December 31, 1916, is modified in the sense that the duration of this suspension is prolonged until June 30, 1917.

As to the remainder, my decree above cited remains in force without any modification.

ART. 2. The present decree shall become effective from the date of its publication.

Budapest, December 20, 1916.

(Signed) BARON JEAN HARKANYI, m. p.,
Royal Hungarian Minister of Commerce.

(From 33 *La Propriété Industrielle*, 2, of Jan. 2, 1917.)

PATENTS—TAXES—FURTHER EXTENSION OF TERM FOR PAYMENT—
“WAR MEASURES”—DECREE NO. 46,728, OF JUNE 26, 1917.

[Translation.]

Decree of the Royal Hungarian Minister of Commerce concerning the extension of the delay for the payment of the annuities established by section 45 of the thirty-seventh legislative Article of 1895 concerning patents of invention.

By virtue of the power conferred by section 16 of the sixty-third legislative Article of 1912 concerning exceptional measures to be taken in case of war, and in conformity with the decree of the Royal Hungarian Minister of Commerce, No. 6981-1914, I decree as follows:

SECTION 1. The provision of my decree of December 20, 1916, No. 91,621, according to the terms of which the terms for the payment of patent annuities and additional taxes was suspended until June 30, 1917, is amended in the sense that this suspension is extended until December 31, 1917.

Otherwise my decree above mentioned remains in force without any modification.

SEC. 2. The present decree shall become of effect from the date of its publication.

Budapest, June 26, 1917.

(Signed) ROYAL HUNGARIAN MINISTER OF COMMERCE.

(From 33 *La Propriété Industrielle*, 82.)

[DECREE OF 16TH DECEMBER, 1917.]

The provisions of the ordinance of 26th June, 1917, No. 46728, under the terms of which the periods of extension for the payment of patent taxes and additional taxes has been suspended until 31st December, 1917, are modified in the sense that the duration of this suspension is prolonged until 30th of June, 1918.

For the rest the ordinance referred to above remains in force without any modifications.

ITALY.

[NOTE.—The Italian law and regulations of January 31, 1864, extended the Sardinian law of October 30, 1859, to the whole Kingdom of Italy. Certain sections were repealed, and all matters concerning patents were placed under the direction of the Minister of Agriculture, Industry, and Commerce. The following is the law thus amended, transitory provisions being omitted.]

PART I.—RIGHTS DERIVED FROM INVENTIONS OR INDUSTRIAL DISCOVERIES AND TITLES THERETO.

CHAPTER I.

RIGHTS OF INVENTORS.

ARTICLE 1. The author of a new invention or discovery in industry has the exclusive right of working the same and of deriving profit therefrom during the time, within the limits, and under the conditions prescribed by the present decree.

This exclusive right constitutes an industrial privilege.

ART. 2. An invention or discovery is said to belong to industry whenever the immediate object is:

(1) An industrial product or result.

(2) An instrument, machine, tool, engine, or any mechanical arrangement.

(3) A process or method of industrial production.

(4) A motor, or the industrial application of a force already known.

(5) Finally, the technical application of a scientific principle, provided it give immediate industrial results.

In this last case the privilege is limited solely to those results expressly pointed out by the inventor.

ART. 3. An invention or industrial discovery shall be considered as new when it was not before known or even when the particulars necessary for putting it into practice are unknown, though a general notion of it exists.

ART. 4. A new invention or industrial discovery already patented abroad, although published by reason of the foreign patent, confers on its author, or on those interested through him, the right of obtaining a privilege in the State, provided the patent be applied for be-

fore the expiration of the foreign privilege, and before the same invention or discovery has been freely imported and worked in the Kingdom.

ART. 5. Any modification of an invention or discovery protected by a patent still in force gives the right to a patent, without prejudice to that which already exists for the principal invention.

ART. 6. The following do not constitute subjects for patents:

- (1) Inventions or discoveries relating to industries contrary to law, morals, or public safety.
- (2) Inventions or discoveries which have not for object the production of material objects.
- (3) Inventions or discoveries of a merely theoretical nature.
- (4) Medicines of whatever kind.

CHAPTER II.

PATENTS, THEIR FORCE, DURATION, AND FEES.

ART. 7. The legal title to the exercise of an industrial privilege is conferred by a patent delivered by the public administration.

The patent does not guarantee the utility or reality of the invention or discovery as claimed by the applicant, nor does it prove the existence of the properties which the law requires in an invention or discovery in order that the patent may be valid and efficacious.

ART. 8. A privilege for a new article covers the exclusive right of manufacturing and selling the said article.

A privilege for the employment in any industry of a chemical agent, process, method, instrument, machine, tool, apparatus, or mechanical arrangement of any kind which has been invented or discovered, confers the right of preventing others from employing it.

But whenever he who enjoys the privilege himself supplies to others the preparations or mechanical means whose exclusive use forms the subject of a privilege, it shall be presumed that he at the same time gives the permission to use them, provided there exists no agreement to the contrary.

ART. 9. The author of an invention or discovery protected by privilege, and those interested through him, may apply for a patent of addition for any modification made by them in the principal discovery or invention. This patent extends to the modification, which is its subject, the effects of the principal privilege for the whole period of the duration of this privilege.

ART. 10. Patents take effect with respect to third parties from the moment at which the application was lodged.

The duration of a patent shall not be more than fifteen years nor less than one year, always reckoning from the last day of one of the

months of March, June, September, or December, whichever next follows the day whereon the patent is applied for, and shall not comprise any fraction of a year.

ART. 11. The duration of a patent for an invention or discovery already patented abroad shall not exceed that of the patent granted for the longest term, and in no case shall exceed fifteen years.

ART. 12. A patent granted for less than fifteen years may be prolonged for one or more years; the duration, however, of the prolongation added to the duration of the original patent shall not exceed fifteen years.

ART. 13. The prolongation of a patent includes all the certificates of addition.

ART. 14. Patents which shall be granted in respect of applications made after the publication of this decree shall take effect in the whole territory of the State, and be subject to a proportional tax, payable at the time of the application, and to a further annual tax.

The proportional tax shall consist of as many times 10 lire as the years for which the patent is applied for.

The annual tax shall be 40 lire for the first three years; 65 lire for the following three years; 90 for the seventh, eighth, and ninth years; 115 lire for the tenth, eleventh, and twelfth; and 140 lire for the remaining three years.

ART. 15. The first annuity and the proportional tax are to be paid at the time when the application for a patent is lodged.

The other annuities are to be paid in advance on the first day of each year of the duration of the patent, and shall be subject to the triennial increase even in the case of a prolongation of the patent.

ART. 16. The tax on a certificate of addition shall consist of the single payment in advance of 20 lire only.

ART. 17. For a certificate of prolongation there shall be paid 40 lire, besides the proportional tax and annuities, of which the first, corresponding to the first year of the prolongation, shall be paid when application is lodged, and the others in advance, conformably to Article 15.

ART. 18. In cases of patents of importation, whose term ends with that of the foreign patent, every fraction of a year is to be considered as a whole year with respect to the payment of the tax.

PART II—CONDITIONS AND PROCEDURE FOR OBTAINING A PATENT.

CHAPTER I.

APPLICATIONS AND THEIR CONDITIONS.

ART. 19. All matters concerning patents are placed under the direction of the Minister of Agriculture, Industry, and Commerce.

ART. 20. Whoever desires to obtain the grant of a patent must lodge an application with the Minister of Agriculture, Industry, and Commerce through the local prefecture or subprefecture; such application shall be lodged by the inventor or by his special attorney, and shall contain:

(1) The name, Christian name, country, and domicile of the applicant, and of his attorney, if there be one.

(2) An indication of the discovery or invention in the form of a title which expresses shortly, but with precision, its character and scope.

(3) An indication of the term which it is desired shall be assigned to the patent within the limits fixed by the law.

One and the same application shall not have reference to more than one patent, nor to a single patent for several inventions or discoveries.

ART. 21. The application must be accompanied by:

(1) The specification of the invention or discovery.

(2) The drawings, if any can be made, as well as the models, which the inventor may deem useful for the comprehension of the invention or discovery.

(3) The receipt proving the payment into the public treasury of the tax corresponding to the patent applied for.

(4) When the application is for a patent of importation, the original deed, or a legalized copy of the same, proving that a foreign patent has been granted.

(5) If there be an attorney, the power in public or private form, provided that in the latter case the signature of the principal be certified by a notary public, or by the syndic of his place of residence.

(6) A memorandum of the documents and articles lodged.

ART. 22. The specification mentioned in the foregoing article shall be written in the Italian or French language, and shall contain a clear and complete account of all the details necessary for enabling a competent person to put into practice the invention or discovery described.

The application must be accompanied by three copies of the specification and of each of the drawings, the applicant alone being responsible for the conformity of these copies.

Whenever the description is accompanied by a model, the applicant is not exempt from annexing to the application one or more drawings, in duplicate, showing the entire model, or at least those parts in which the invention consists.

ART. 23. During the first six months of the term of a patent, reckoning from the last day of the March, June, September, or December next after the application, the proprietor of the patent may require the same to be reduced to one of the parts of the speci-

fication annexed to the original application, distinctly pointing out those parts he intends to exclude from the patent.

The parts disclaimed shall be considered as having never been comprehended in the reduced patent.

ART. 24. An application for disclaimer must be accompanied by :

(1) The receipt for the payment of 40 lire.

(2) Three identical copies of the specification which it is intended to substitute for that already lodged.

(3) Three copies of the new drawings which it may be required to substitute for the former drawings.

ART. 25. The certificates delivered in pursuance of such applications shall be called certificates of reduction, and their duration shall be that of the patents which have been reduced.

ART. 26. During the six months mentioned in Article 23, patents for modifications shall only be granted to the author of the patented invention or discovery, or to those interested through him. The applications lodged by third persons for such patents and the accompanying documents shall be delivered in a packet sealed by them, which shall be deposited as hereinafter stated.

At the expiration of the six months mentioned above, the packet shall be unsealed and the patent shall be delivered, unless the interested party notifies his intention to withdraw the application, in which case the tax shall be returned to him.

The patent thus granted shall begin to take effect relatively to patents of addition from the first day after the expiration of the period of six months; but with respect to persons not interested in the original patent and to patents applied for by them, it shall take effect from the moment on which the application was lodged.

ART. 27. An application for a patent of addition shall not mention its term.

In other respects the provisions of the twentieth and following Articles shall be observed.

ART. 28. An application for the prolongation of a patent must be accompanied by :

(1) The deed proving that the applicant is the owner of the patent which he seeks to prolong.

(2) The receipt for the tax mentioned in the seventeenth Article.

(3) The power of attorney and memorandum mentioned in paragraphs 5 and of Article 21.

CHAPTER II.

DELIVERY OF THE APPLICATIONS AND ACCOMPANYING DOCUMENTS AND ARTICLES.

ART. 29. Applications of whatever kind, with the documents and other articles which may or ought to accompany the same, shall be

delivered, in Turin, at the office appointed by the Minister; elsewhere, at the prefectures.

[NOTE.—By the royal decree of 23d October, 1884, this office was transferred to Rome.]

ART. 30. The official appointed to receive the applications shall draw up a report, in which shall be entered the day and hour of the delivery, and which shall mention the object of the application.

The official report must show the real or elected domicile of the applicant or his attorney in the town where the delivery takes place. otherwise the municipality shall be legally considered as the elected domicile.

ART. 31. With regard to the application mentioned in Article 26, the official report must contain the statement of the applicant, that he wishes to obtain in due time a patent for a modification as described in the specification under sealed cover, in an original invention or discovery, the title of which shall be mentioned in the official report.

ART. 32. Each such official report shall be recorded in a special register and be signed by the applicant or his attorney.

A copy of it shall be delivered to the applicant without charge, except for the stamp on the paper on which it is written.

ART. 33. Within the five days following, the documents and all articles left at the secretariates of the prefectures shall be transmitted to the Ministry of Agriculture, Industry, and Commerce.

At the same time there shall be sent an unstamped copy of the official report.

ART. 34. The official reports from the provinces shall be copied into the registers of the Ministry.

ART. 35. If the legal formalities have been fulfilled, the applications shall be registered with the date of their presentation and the patents applied for shall be granted.

ART. 36. Each patent shall be recorded in a special register and the entry signed by the chief of the office.

A copy, signed as aforesaid, shall be delivered to the interested party, together with one of the originals of the drawings, specification, and memorandum, initialed on each sheet by the said official. This first copy of the patent shall be delivered free of cost; for every other, which shall bear the consecutive number of the delivery, 15 lire shall be paid.

ART. 37. With regard to inventions and discoveries relating to all kinds of beverages or eatables, the said office shall transmit the specification and whatever else may be necessary to the Superior Board of Health, to obtain its advice before delivering a patent.

ART. 38. If the Board of Health advise that the invention or discovery is injurious to health, or if there be the least doubt thereon, the application for a patent shall be rejected.

If the advice be favorable, the following clause shall be inserted in the patent to be granted: "The Superior Board of Health having been consulted."

A patent so granted shall not exempt the person who holds it and who practices the new invention from fulfilling all other provisions of the sanitary laws.

ART. 39. A patent shall be refused:

(1) If the invention or discovery for which it is requested belong to one of the four classes mentioned in Article 6.

(2) If there be no written application, or if, in the application, the title of the invention or discovery be wanting.

(3) If there be no specification.

(4) If a patent be applied for for different inventions or discoveries, or if several patents of the same or of different kinds be applied for in the same application.

(5) If the fees paid do not correspond with the kind of patent applied for.

ART. 40. The grant of the patent shall be suspended in default of the fulfillment of any of the other conditions prescribed by this decree, or when the specification does not possess all the required features.

ART. 41. The refusal or suspension, and the reasons for the same, shall be communicated to the applicant or his attorney through one of the officers attached to the prefecture and by a notice left at his elected or real domicile, mentioned in the official report of the application.

ART. 42. Within fifteen days after such notice, the applicant, or his attorney, may supply the deficiencies, or appeal against the refusal or suspension.

The documents intended to supply such deficiencies, or the notice of appeal, shall be left at the secretariate of the prefecture. An official report of the same shall be drawn up and a copy thereof be delivered to the interested party on payment for the stamped paper only on which it is drawn up.

If within the term of fifteen days no documents have been deposited and no appeal has been lodged, the application shall be considered as not having taken place, the inventor having the right to renew his application.

ART. 43. The Minister shall entrust the examination of the above-mentioned appeals to a commission composed of fifteen members, three of whom shall belong to the permanent magistracy or to the

faculty of law at the Royal University of Turin, and the remaining twelve chosen from—

(1) The members of the section of physical and mathematical sciences at the Royal Academy of Sciences.

(2) The professors and doctors of the faculty of the like sciences at the Royal University.

(3) The professors at the technical schools.

The members of the said commission shall be nominated every year by the Minister.

The commission shall be divided into three sections (mechanics, physics, and chemistry), each of which shall be composed of one legal member and four other technical members.

Each appeal shall be heard by that section which corresponds with the nature of the patent applied for.

If the verdict of the section be not arrived at unanimously, it shall be revised by the whole commission.

If it relate to an invention deemed contrary to law, morals, or public safety, the public prosecutor shall be consulted, and his opinion shall be communicated to the commission charged with the examination of the appeal.

ART. 44. An appeal shall be considered as not having been made unless it be accompanied by the deposit of 50 lire.

ART. 45. If the verdict mentioned in Article 43 be in favor of the appellant, the appointed official shall deliver the patent and return the deposit mentioned in the foregoing article.

In the contrary case the patent shall be definitely refused, and the deposit shall be paid into the treasury.

PART III.—ASSIGNMENTS OF PATENTS.

ART. 46. Every deed of transfer of a patent must be registered at the Ministry and published in the *Official Gazette of the Kingdom* at the expense of the applicant.

The transfer shall take effect with respect to third parties only from the date of registration.

ART. 47. To effect this registration, the person in whose favor the assignment has been made must produce, or cause to be produced, the deed of transfer and two memoranda on stamped paper, containing:

(1) His name, Christian name, and domicile, and also those of the person who assigns to him the rights mentioned in the deed.

(2) The date and nature of the deed presented and the name of the notary who accepted it, in case of its being a public act.

(3) The date of registry, if any.

(4) An exact statement of the rights assigned.

(5) The date of delivery of these memoranda, which shall be that of the registration.

ART. 48. Such deliveries may be made either at the secretariate of one of the prefectures or at the appointed office.

In either case the deed shall be returned to its owner after having been noted for registration and signed by the secretary or head of the appointed office.

At the secretariate of the prefecture, where delivery takes place, there shall be transcribed in a special register the contents of the memoranda prescribed by the preceding article, and one memorandum shall be retained and the other shall be transmitted immediately to the office mentioned above.

At this office all the memoranda, whether received directly or transmitted from the prefectures, shall be recorded and kept.

ART. 49. If the rights derived from a patent be assigned as a whole to a single person, he is obliged to pay the tax; if to several persons collectively, they are conjointly bound to make the payment; if they be partially assigned to several persons, or be alienated in part, the deed of assignment can not be registered unless it be accompanied by a receipt proving the payment into the public treasury of a sum equal to the remaining annual taxes.

PART IV.—PRESERVATION AND PUBLICATION OF DOCUMENTS RELATING TO PATENTS.

ART. 50. The registers in which are recorded the patents issued and all their progressive stages are noted, and also the annulments, declaration of nullity, and expirations of the said patents, and those in which are registered assignments of the rights derived therefrom are public registers.

ART. 51. Whoever requires an extract therefrom shall make an application *to the Minister* on stamped paper, and the extract shall be *furnished without any charge on stamped paper supplied by the applicant. The application for and the delivery of the extracts shall be made through the local administrative authority.*

[NOTE.—The alterations in italics were made by the law of Aug. 4, 1894.]

ART. 52. A copy of the specification and drawings shall be deposited at the appointed office, but no person shall be allowed to inspect them within the three months after the delivery of the patent.

The models and another copy of the specification and drawings shall be kept in a room set apart for this purpose by the Government, and shall there be open to the public after three months from the grant of the patent.

Any person may, after the said period of three months, inspect the specification, drawings, and models and make at his own expense one

or several copies in the manner and under the conditions which shall be fixed by the rules.

ART. 53. *Every month* there shall be published in the *Official Gazette* a list arranged according to subject matter of the patents issued during the preceding month with a statement of the object of the privilege.

[NOTE.—The alterations in italics were made by the law of Aug. 4, 1894.]

ART. 54. *The administration may cause to be published, after the lapse of three months referred to in Article 52, a short description of the inventions, indicating their principal characteristics, and also analytical and alphabetical indexes to facilitate the researches of inventors.*

[NOTE.—This substitution was made by the law of Aug. 4, 1894.]

ART. 55. *An extract from these lists indicating the object of the patent shall be transmitted to each prefecture in the Kingdom and to each chamber of commerce, at the secretarial office of which any one may consult it.*

[NOTE.—This substitution was made by the law of Aug. 4, 1894.]

PART V.—NULLITY AND ANNULMENT OF PATENTS.

CHAPTER I.

CAUSES OF NULLITY AND ANNULMENT.

ART. 56. The preliminary examinations and adjudications do not preclude the nullity of a patent.

ART. 57. A patent is null—

- (1) If it refer to inventions or discoveries comprised in Article 6.
- (2) If a privilege relating to one of the inventions or discoveries mentioned in Article 37 have by mistake been delivered against the advice of the sanitary authority.

If granted in error without consulting the aforesaid authority, the patent shall become void when the advice on being taken is adverse.

(3) If through the fraud of the person who obtains the patent, the title or name of the invention or discovery do not correspond to its real object.

(4) If the specification annexed to the application for the patent be insufficient, or conceal or omit any of the description necessary for putting into practice the invention or discovery protected by patent.

(5) If the invention or discovery be not new, or do not relate to industry.

(6) If a patent be granted to a third party for a modification of an invention within the six months allowed to the inventor, and persons interested through him.

(7) A patent of addition is also null when the modification for which it was granted is not connected with the principal invention.

(8) And lastly, a prolongation is null if it have been applied for after the expiration of the term of the patent, or after its absolute annulment has been pronounced.

ART. 58. A patent ceases to be valid—

(1) If in a single instance the annual tax for the ensuing year be not paid within three months from the day on which it falls due.

(2) If in the case of a patent granted for five years or less the invention or discovery in question have not been worked within the year following the grant of the same, or the working have been suspended during a whole year.

(3) If it have not been worked or have been discontinued for two years in the case of a patent granted for more than five years. In either case annulment shall not ensue if the inaction arose from causes beyond the control of the owner or owners of the patent. The want of pecuniary means is not included in these causes.

CHAPTER II.

ACTIONS FOR NULLITY AND ANNULMENT.

ART. 59. Actions to obtain a declaration that a patent is null or annulled shall be brought before the provincial tribunals.

The cause shall be proceeded with and decided by summary procedure.

The documents shall be communicated to the public minister.

ART. 60. If at the instance and in the interest of private persons the partial nullity or annulment of any patent have been twice pronounced, the public minister of the place, or one of the places where the patented invention or discovery is worked, may directly demand that the patent be annulled or declared null in an absolute and peremptory manner.

The same can be done without waiting for any civil action to be brought in cases provided for by paragraphs 1, 2, 3, and 8 of Articles 57 and 58.

In the two annulments mentioned in the first clause of this Article there shall not be reckoned any that apply to those parts of the invention or discovery which have been subsequently cut out by an application for disclaimer within the term of six months accorded by the present law for such a purpose.

ART. 61. In each of the two preceding cases all persons are to be summoned in the action who have a legal interest in the exercise of the privilege and whose names appear in the registers of the central office.

ART. 62. Except in the case mentioned in paragraph 8 of Article 57, the court, before pronouncing the nullity, must, on the demand of one of the parties, take the advice of three experts; and in case of appeal the revision of such an opinion must be ordered on the same hypothesis that one of the parties requests it.

In all cases, however, the tribunal or court of appeal may officially order an examination or the revision of an examination.

ART. 63. The public minister shall transmit to the Minister of Agriculture, Industry, and Commerce, through the Minister of Justice, an extract on unstamped paper of judgments declaring nullity or pronouncing absolute annulment. The operative part of these judgments shall be entered in a special register and be published in the *Official Gazette*.

PART VI.

INFRINGEMENT OF PATENT RIGHTS AND ACTIONS DERIVED THEREFROM.

ART. 64. Whoever fraudulently and in contravention of a patent manufactures products, uses a machine or any other industrial means or expedients, or trades in, sells, exposes for sale, or imports into the State infringing articles commits an offense, punishable with a fine not exceeding 500 lire.

ART. 65. Both in the case in which a civil action is carried on conjointly with a penal action, and where it is carried on separately, the machines and other industrial means used in infringement of the patent, the infringing articles, and the instruments intended for their production shall be taken from the infringer and given over to the owner of the patent.

The same action shall be taken against dealers, traders, sellers, or importers of infringing articles.

ART. 66. The injured party shall, moreover, have the right to recover damages, and if the owner of the articles mentioned in the preceding article acted without fraud or deceit he shall only be subject to the loss of the articles mentioned to the profit of the injured party.

ART. 67. Civil actions shall be carried on in the form for summary proceedings.

Correctional actions against the offenses mentioned in Article 64 may only be instituted on the complaint of the injured party.

ART. 68. The president of the provincial tribunal may, on the demand of the owner of a patent, order the seizure or inventory of the articles supposed to be infringements, or used in contravention of the patent, provided they be not destined for mere personal use.

By the same order the president shall delegate an officer to execute it, and may nominate one or more experts for the description of the articles.

He, moreover, shall cause the plaintiff to give security before proceeding to seizure.

ART. 69. The plaintiff may, if authorized by the president of the tribunal, be present at the seizure or at the drawing up of the inventory; in all cases he may substitute an inventory for the seizure on condition that he expresses his wish to that effect, either in the official report for the seizure or in a separate document, notified through a public officer both to the party against whom he is proceeding and to the executive officer.

ART. 70. A copy of the order of the president, of the deed proving the deposit of the security, and of the official report of the seizure or inventory, shall be left with the holder of the articles seized or inventoried.

ART. 71. The seizure or inventory shall be null and void, unless, within eight days following, it be followed by judicial action, and the party against whom the proceeding for seizure or inventory was brought shall be entitled to damages.

* * * * *

LAW OF THE 12TH OF DECEMBER, 1901.

ARTICLE 1. The supplementary Act signed at Brussels on the 14th of December, 1900, by Italy and various other States modifying the Convention for the Protection of Industrial Property, signed at Paris on the 20th day of March, 1883, and the annexed Protocol agreed to on its signature, are approved.

The Government of the King is authorized to ratify the same in the manner and within the term prescribed by Article 3 of the said Act.

ART. 2. The supplementary Act signed at Brussels on the 14th of December, 1900, by Italy and various other States modifying the special convention (Arrangement) concerning the international registration of manufacturing and commercial marks signed at Madrid on the 14th of April, 1891, is approved and the annexed Protocol is suppressed.

The Government of the King is authorized to ratify the same in the manner and within the term prescribed by Article 3 of the said Act.

ITALY—WAR LEGISLATION.

PATENTS—WAR MEASURE—ROYAL DECREE OF SEPTEMBER 24, 1914,
No. 1034.

[Translation.]

Royal decree to be converted into a law concerning an extension of the terms established by the law of October 30, 1859, No. 3731, concerning patents. (Sept. 24, 1914, No. 1034.)

Vittorio Emanuele III, by the grace of God and the will of the Italian nation, King of Italy, in view of the law of October 30, 1859, No. 3731, concerning industrial patents, having considered the inconveniences brought about by the present international conditions, and with the intention of making possible to owners of industrial patents residing abroad the keeping valid of their certificates of patent, having heard the Council of Ministers, on the proposal of the Ministers of Agriculture, Industry, and Commerce, and of the Treasury, we have decreed and do decree:

ARTICLE 1. The terms for applying for the prolongation of industrial patents, whose duration expires September 30, 1914, belonging to persons residing abroad, and for the corresponding payment of taxes, are extended until December 31, 1914.

ART. 2. Certificates of industrial patents falling due in June and in force on September 30, 1914, that belong to persons resident abroad, shall not incur the annulment threatened in Article 58 of the law of October 30, 1859, No. 3731, provided that the conditions established by law for maintaining their validity are performed no later than December 31, 1914.

ART. 3. The terms for responding to notices of suspension and refusal of certificates of industrial patents applied for by persons resident abroad and notified on July 15 and December 15, 1914, are likewise extended until December 31, 1914.

The present decree shall be presented to Parliament in order to be converted into a law.

We order that the present decree, bearing the seal of the State, be inserted in the official minutes of the laws and decrees of the Kingdom of Italy, requiring those concerned to observe it and cause it to be observed.

Given at Rome, September 24, 1914.

(Signed)

VITTORIO EMANUALE.

A. SALANDRA.

G. RUBINI.

G. CAVASOLA.

Viséd, The Chancellor:

DARI.

(From 13 *Bollettino della proprietà intellettuale*, 205.)

PATENTS — FOREIGNERS — WAR MEASURES — MORATORIUM EXTENDED
TO JUNE 30, 1915—ROYAL DECREE OF JANUARY 3, 1915.

[Translation.]

Royal decree for the extension until June 30, 1915, of the terms relative to industrial property belonging to persons residing abroad. (Jan. 3, 1915, No. 3.)¹

Vittorio Emanuele, by the grace of God and the will of the nation, King of Italy, in view of the law of October 30, 1859, No. 3731, concerning industrial patents; in view of the royal decree of September 24, 1914, No. 1034; the need being evident for prolonging the terms provided in said decree to render possible to owners of industrial patents residing abroad the preservation of their certificates of patent, for avoiding the difficulties brought about by present international conditions; the Council of Ministers being heard, at the instance of the Ministers of Agriculture, Industry, and Commerce, and of the Treasury, with the approval of the President of the Council of Ministers, the Minister of the Interior, we have decreed and do decree:

ARTICLE 1. All the terms extended up to December 31, 1914, by the royal decree of September 24, 1914, No. 1034, are furthermore extended to June 30, 1915.

ART. 2. The terms that expired prior to such date for the fulfilling of the conditions provided by law for prolonging the duration or for not incurring the nullification of patents in force on December 31, 1914, and belonging to persons residing abroad, are also extended.

ART. 3. The present decree shall be presented to Parliament to be converted into a law.

We order that the present decree, under seal of the State, be inserted in the official collection of laws and decrees of the Kingdom of Italy, commanding whoever be concerned to observe it and cause it to be observed.

Given at Rome on the 3d day of January, 1915.

(Signed)

VITTORIO EMANUALE.
SALANDRA.
CAVASOLA.
CARCANO.

PATENTS—EXPROPRIATION FOR MILITARY PURPOSES—DECREE OF
JANUARY 28, 1915.

[Translation.]

Decree concerning the expropriation of patents of invention.

Vittore Emanuele III, by the grace of God and the will of the Nation, King of Italy, in view of the law of October 30, 1859, No. 3731,

¹ Published in the *Gazzetta ufficiale del Regno* of Jan. 12, 1915.

concerning patents of invention; in view of the law of June 25, 1865, No. 2356, concerning expropriations for the sake of public utility; considering the necessity that there is for regulating the expropriation of patents in the interest of the defense of the State, the Council of Ministers being heard, on the proposition of the Ministers of Agriculture, of Industry and of Commerce, in accord with the President of the Council of Ministers, Minister of the Interior, and the Ministers of the Treasury, War, and Navy, we have decreed and do decree:

SINGLE ARTICLE.

The State may, in the interest of the national defense and solely for its military use, expropriate a patent in whole or in part, or make use of an invention without the consent of the patentee, by virtue of a royal decree issued at the suggestion of the competent minister, in accord with the Minister of the Treasury, and after hearing by the Council of Ministers. The person deprived, or whose invention the State utilizes, may claim an indemnification that, in default of understanding between the parties, shall be fixed by one or three experts designated by the First President of the Court of Appeals of Rome.

No recourse, either judicially or in an administrative way, may be made against said decree.

When it shall be a matter of an invention of interest for the defense of the State, the specification and the designs belonging thereto may be sent, even before the delivery of the patent, to the competent minister, who may require that publication or notice relating thereto be delayed for an undetermined period.

The present decree shall be presented to Parliament in order to be converted into a law.

We order that the present decree, under seal of the State, be inserted in the Official Collection of Laws and Decrees of the Kingdom of Italy, enjoining those responsible to observe it and cause it to be observed.

Given at Rome, January 28, 1915.

(Signed)

VITTORE EMANUALE.
ZUPELLI.

Viséed the chancellor:

ORLANDO.

(From *La Propriété Industrielle*, March, 1915.)

INDUSTRIAL PROPERTY—WAR MEASURES—TEMPORARY DECREE OF JUNE
20, 1915.

[Translation.]

Temporary decree concerning the terms for payments relative to industrial property and for the acts necessary for maintaining

patents in force, as well as other transitory provisions for the preservation of industrial property. (June 20, 1915, No. 962.¹)

Tomaso di Savoia Duca di Genova, Lieutenant General of His Majesty, Vittorio Emanuele III, by the Grace of God and will of the Nation, King of Italy, by virtue of the authority delegated to us, in view of the law of May 22, 1905, No. 671, concerning the delegation of extraordinary powers to the Government in case of war and during war; in view of the laws of October 30, 1859, No. 3731, concerning industrial patents, August 30, 1868, No. 4577, concerning distinctive marks and signs of manufacture and of commerce, and August 30, 1868, No. 4578, concerning manufacturers' designs and models, on the proposal of the Minister Secretary of State for Agriculture, Industry, and Commerce, in concert with the Minister of the Treasury, we have decreed and do decree:

ARTICLE 1. Soldiers in active service, those employed with the army and the navy, and persons that find themselves by reason of service connected with the army and the navy, may defer the payment of fees for applications for patents of industrial inventions and for manufacturers' models and designs, and for the registry of marks of manufacture and commerce until the sixtieth day following that of the publication of peace. Applications presented by said persons when they are not accompanied by the receipt for the fee, shall be held in suspense until the term indicated.

ART. 2. The persons indicated in the preceding article may defer the payment of the taxes and the performance of the acts prescribed by law for the maintenance in force of industrial patents, and applications for the prolongation thereof until the last day of the quarter succeeding that wherein peace shall be published, if the terms for said acts or payments were not yet expired at the moment of the declaration of war. Native holders of certificates of patent that are prevented by circumstances due to the state of war from effecting the payment and from fulfilling the necessary procedure are entitled to the same advantages, within the terms of the prescribed law, in order to maintain in force and prolong their patents.

ART. 3. The provisions of the preceding article shall be applied also to foreign owners of industrial patents, subjects of States that guarantee equal advantages to Italian owners of patents. The existence of reciprocal treatment shall be acknowledged by decree of the Minister of Agriculture, Industry, and Commerce.

ART. 4. The publication of the list of patents for which the fee due was not paid in the required time, according to Article 43 of the regulation approved by royal decree, October 2, 1913, No. 1237, is suspended, to commence with that having to do with patents for

¹ See 12 P. & T. M. Rev., 175.

which the last term of payment falls due the 30th of June, 1915, until that concerning payments effected at the end of the quarter following that wherein peace shall be published.

Certificates of prolongation applied for, following the expiry of the term of the patent of persons that show that they are in the circumstances provided by Articles 2 and 3, shall be granted, if the said term had not expired at the moment of the declaration of war.

ART. 5. The grant of certificates of industrial patents, the registration of manufacturers' models and designs, the deposit of distinctive marks and signs of manufacture, and the registration of assignments of patents and of marks in favor of foreigners belonging to States that are found in state of war with Italy, are suspended until after the publication of peace.

ART. 6. The present decree shall be effective from its date.

We order that the present decree, under seal of the State, be inserted in the official collection of the laws and decrees of the Kingdom of Italy, commanding those concerned to observe it and cause it to be observed.

Given at Rome on the 20th day of June, 1915.

(Signed) TOMASO DI SALVOIA,
SALANDRA,
CAVASOLA,
CARCANO.

(From 14 *Bollettino della Proprietà Intellettuale*, Facs. 7-8.)

INDUSTRIAL PROPERTY—WAR MEASURES—RECIPROCAL BENEFITS TO BRITISH AND FRENCH SUBJECTS—DECREE OF SEPTEMBER 25, 1915.

[Translation.]

[Ministerial decree recognizing the applicability to French subjects, English subjects, and their like, of the provisions approved by the temporary royal decree of June 20, 1915, No. 962, concerning the extension of terms in industrial property matters.]

The Ministry of Agriculture, Industry, and Commerce, in view of the temporary decree of June 20, 1915, No. 962, concerning the extension of terms in industrial property matters; in view of the communications of date August 27, 1915, of the English Government, and of August 31, of the Government of the French Republic; having seen that the conditions required by Article 3 of the temporary decree, for extending to owners of patents that belong to foreign States the benefits therein provided, are satisfied as regards Great Britain and France, on the proposition of the inspector general of industry, decrees:

The benefits provided in Article 2 of the temporary decree of June 20, 1915, No. 962, concerning the extension of the terms for the payment of taxes and for the fulfillment of acts prescribed for the purpose of maintaining in force industrial patents or requesting their prolongation, are applicable to English subjects, French subjects, and to their like.

The present decree shall be published in the *Gazzetta ufficiale* of the Kingdom, along with the communications concerning applications of the English and French Governments.

Rome, September 25, 1915.

(Signed)

CAVASOLA,
The Minister.

(From 15 *Bollettino della Proprietà Intellettuale*, Fasc. 15 and 16, p. 205.)

PATENTS—SECRET PATENTS—FOREIGN HOLDERS—PRACTICE—"WAR MEASURES"—MINISTERIAL CIRCULAR, OF JUNE 12, 1916.

[Translation.]

Inquiry having been made by divers parties to the Ministry as to whether it is possible to secure an extension until the end of the war for the publication of the specifications and drawings cited in applications for patents, of those inventions for which the authorities of friendly or allied States have permitted the deposit in Italy, on condition that this deposit should not jeopardize the secret of the invention, I beg leave to inform those interested that this Ministry, whenever it receives such applications, accompanied by a declaration of the patent office of the friendly or allied State, by virtue of which it appears that their deposit in Italy is subordinated to the condition of secrecy, it will act in conformity with the provisions of the Royal Decree of January 28, 1915, No. 49, to the end that the same invention be not disclosed, until the end of the war, in any communication to third parties, and will also suspend, whenever requested, the delivery of the deed.

The declaration of the foreign patent office may be informal, like that that has to accompany the documents requesting priority, and its translation is not required.

I request acknowledgment of the receipt of this and the assurance that its contents will be communicated to the knowledge of those interested.

(Signed)

COTTAFI,
For the Minister.

(From 15 *Bollettino della Proprietà Intellettuale*, Fasc. 9-12, p. 67.)

PATENTS—OF UTILITY TO RAILWAY SERVICE—OPTIONAL EXPROPRIATION BY STATE—"WAR MEASURES"—PROVISIONAL DECREE OF MARCH 19, 1916.

[Translation.]

Provisional decree of March 19, 1916, No. 500, by virtue of which the administration of railways of the State is authorized in the interest of the public service to expropriate in whole or in part the rights to patents. (*Gazzetta ufficiale*, May 9, 1916, No. 109.)

Tomaso di Savoia, Duca di Genova, Lieutenant General of His Majesty, Vittorio Emanuele III, by the grace of God and will of the nation King of Italy, by virtue of the authority to us delegated, in view of the law of October 30, 1859, No. 3731, concerning patents; in view of the law of June 25, 1865, No. 2356, concerning expropriations for reasons of public utility; in view of the royal decree of January 28, 1915, No. 49, which concedes to the State, in the interest of national defense and only for military use, the right of expropriation in whole or in part of patent rights, having considered the need of regulating the expropriation of patent rights to the end of assuring the continuity of the railway service of the State, having heard the Council of Ministers, on the motion of the Minister of Agriculture, Industry, and Commerce, in agreement with the Minister of Public Industry, we have decreed and do decree:

ARTICLE 1. The administration of railways of the State may in the interest of public service expropriate in whole or in part the rights to industrial patents, or avail itself of inventions without the consent of the patentee, following a royal decree issued on motion of the competent Minister, with the consent of the Minister of the Treasury and after the Council of Ministers has been heard.

Against the royal decree recourse is permitted through judicial means, likewise, on question of right, to the Council of State, without suspensive effect.

To the person suffering expropriation, or of whose invention the administration of railways makes use, there shall be allowed a reimbursement, which, on failure of agreement by the parties, shall be determined by one or three experts named by the President of the Court of Appeals of Rome.

ART. 2. The seizure and the description, mentioned in Article 68 and following of the law of October 30, 1859, No. 3731, concerning industrial patents, are not included among the measures adopted by the administration of railways of the State in the interest of public service.

ART. 3. The present decree, which shall have effect from its publication in the *Gazzetta ufficiale* of the Kingdom, shall be presented to Parliament in order to be converted into a law.

[Decree No. 1294 of 5 October, 1916.]

Tomaso di Savoia, Duca di Genova, Lieutenant General, in virtue of authority which has been delegated to us; in view of the law of 22d May, 1915, No. 671; upon the request of the Secretary of State for War, and in agreement with the Secretary of State for the Navy and the Secretary of State for Industry, Commerce and Labor, we have decreed as follows:

ARTICLE 1. Whoever, without having obtained an express authorization from the Ministry of War or the Ministry of the Navy, communicates or attempts to communicate to foreigners, directly or indirectly, for no matter what reason and in no matter what way, inventions patented or otherwise, concerning war material or of interest in any manner whatsoever for the military defense of the State, is punishable by a fine up to a thousand francs, or imprisonment up to six months, unless the fact constitutes a misdemeanor so grave as to require the application of the terms of the penal code or other special law. Anyone is liable to the same penalty who, by simple imprudence or negligence, renders possible the communication for foreigners one of the inventions indicated by the preceding articles, and who, being in a position to do so, does not prevent this communication. If the culpable person is the inventor or owner of the invention, or person interested in any manner in the invention, the punishment shall not be less than a fine of 500 francs and imprisonment of three months.

ART. 3. There is no appeal against the refusal of authorization required by the first article, either by administrative action or by judicial action. And the refusal or delay of the authorization does not give in any case a basis of action for damages.

ART. 4. Said decree enters into force throughout the duration of the war commencing from the date of its publication, which is October 25, 1916.

PATENTS—FOREIGN HOLDERS—"WAR MEASURES"—DECREES OF SEPTEMBER 24, 1914, AND JANUARY 3, 1915, MADE LAWS BY LAW NO. 97, OF JANUARY 7, 1917.

[Translation.]

Law of January 7, 1917, No. 97, converting into laws the royal decrees of September 24, 1914, No. 1034, and January 3, 1915, No. 3, concerning the extension of the terms fixed by the law of October 30, 1859, No. 3731, concerning industrial patents.

Tomaso di Savoia, Duca di Genova, Lieutenant General of His Majesty Vittorio Emanuele III, by the grace of God and the will of the nation King of Italy, the Senate and the Chamber of Deputies

have approved, by virtue of the authority to us delegated, we have sanctioned, and proclaim the following:

SOLE ARTICLE.

The royal decrees of September 24, 1914, No. 1034, and January 3, 1915, No. 3, concerning the extension of the terms established by the law of October 30, 1859, No. 3731, concerning industrial patents, are converted into laws.

We order that the present under seal of the State be inserted in the collection of laws and decrees of the Kingdom of Italy commanding those concerned to observe it and cause it to be observed as a law of the State.

Given at Rome, the 7th day of January, 1917.

(Signed) TOMASO DI SAVOIA,
DE NAVA,

Minister.

Witness:

SACCHI,

Custodian of the Seal.

(From 15 *Bollettino della Proprietà Intellettuale*, Fasc. 21-24, p. 110.)

PATENTS — TRADE — MARKS — MONOPOLIES — ALIEN ENEMIES — "WAR MEASURES" — RECIPROCAL EXTENSION OF CONVENTION TERMS TO NEUTRAL AND ALLIED NATIONS — DECREE OF MARCH 22, 1917.

[Translation.]

In consideration of the law of May 22, 1916, No. 671, conferring extraordinary powers of the royal Government for the duration of the war; in view of laws of October 30, 1859, No. 3731, on industrial monopolies and No. 4577 of August 30, 1868, concerning trade-marks and other patents; in view of the law of April 6, 1913, No. 285, sanctioning the agreement of the League for the Protection of Industrial Rights at Washington; in consideration of the necessity of disciplining the industrial-property rights of subjects of enemy countries so that the same may not impede the use of inventions in the interest of the national defense or of whomsoever the nation's industry shall have need of service; in consideration, moreover, of the opportune measure of extending the time limit within which persons belonging to allied or neutral nations, conferring equal privileges to Italians, may request industrial monopoly grants in the Kingdom of Italy, returning in possession of the priority of applications presented for the first time in one of the said nations, approved by the Council of

Ministers, and at the instance of the Minister of Industry, Commerce, and Labor, in concert with the Minister of Foreign Affairs, of War, and of the Navy, we have decreed and hereby decree as follows:

ARTICLE 1. For the duration of the war the validity for private industrial rights belonging to enemy subjects, firms, or corporations, located in enemy countries, of inventions regarding war material or which may be used for military purposes, is canceled.

The Ministers of War and Navy shall have the right to use such inventions or concede to others the privilege of using the same for furnishing the army or navy.

The present ruling is to take effect regarding every enemy country, covering the period since the declaration of war.

ART. 2. If reasons of public welfare necessitate the actual use of inventions within the country which are protected as monopoly grants in favor of enemy subjects, firms, or companies, located in enemy countries, such privilege may be granted for the use of those inventions during the war, even without the consent of the holder of the patent, to whomsoever shall request the same.

The license to use such inventions during the war shall be granted by the Minister of Industry, Commerce, and Labor, upon the approval of the committee which examines all recourse pertaining to industrial rights. This grant may be subject to special conditions and to the deposit of a certain sum of money in the Government treasury.

ART. 3. If a trade-mark registered in the name of an enemy subject, firm, or company, shall have become the common designation of the products it serves to distinguish, the use of the trade-mark may be granted upon application, during the war, to Italian manufacturers of those same articles.

The license to use these trade-marks shall be granted by decree of the Minister of Industry, Commerce, and Labor, in the same manner and on the conditions set forth in the preceding article.

ART. 4. No recourse either administrative or judicial is admissible against the rulings as per preceding articles.

ART. 5. The time-limits of priority, as established by Article 4 of the league's convention at Paris, approved at Washington, which had not expired on May 24, 1915, are suspended for the entire duration of the war and until three years after the publishment of peace, in favor of persons belonging to these allied or neutral nations belonging to the union, which may have granted the same benefit to Italians.

(Signed) TOMASO DI SAVOIA.

Given at Rome, March 22, 1917.

(From 238 *Official Gazette*, 1642; original publication in *Gazzetta Ufficiale*, Apr. 10, 1917.)

INDUSTRIAL PROPERTY—APPLICATIONS—RENEWALS—FEES—EXTENSION OF TERMS—RECIPROCITY WITH UNITED STATES—DECREE OF MAY 14, 1917.

[Translation.]

Ministerial decree prolonging in favor of citizens of the United States of America the delay for the payment of industrial property fees.

The Minister of Industry, Commerce, and Labor, in view of the decree of the lieutenant general of June 20, 1915, No. 962, concerning the prolongation of the delays of priority in industrial property matters; in view of the note of the Government of the United States of America of March 24, 1917; in view of the conditions prescribed in Article 3 of the decree of the lieutenant general for granting to foreign holders of patents of invention, the benefits provided in this decree are realized as concerns the United States of America, decrees:

The benefits provided in Article 2 of the decree of the lieutenant general, of June 20, 1915. No. 962, relative to the prolongation of the terms for the payment of fees and for the accomplishment of the procedure prescribed by law for the maintenance in force of patents of invention, and for making application for their prolongation, are applicable to citizens of the United States of America.

The present decree shall be published in the *Gazzetta Ufficiale* of the Kingdom at the same time as the note hereinbefore mentioned.

Rome, May 14, 1917.

(Signed)

DE NAVA,

Minister.

INDIA.

INDUSTRIAL PROPERTY—WAR MEASURE—NOTIFICATION No. 149, of JANUARY 9, 1915.

We are indebted to Messrs. W. H. Williams & Co., of Calcutta, for the following text of notification No. 149, dated 9th January, 1915:

No. 149.—Whereas by paragraph 5 (1) of Trading-with-the-Enemy Proclamation No. II of 9th September, 1914, as amended and extended by proclamation dated the 5th of November, 1914, payment of any sum of money to or for the benefit of persons or a body of persons resident in the territories of the German Empire or in the Dual Monarchy of Austria-Hungary or in the respective colonies and dependencies thereof or in the territories of the Sultan of Turkey other than any territory in the occupation of the British Government or its colonies, in this license and in the said proclamations referred to as "enemy country" is prohibited; and

Whereas, by paragraph 8 of the said proclamation it is provided that nothing in the proclamation shall be taken to prohibit anything which shall be expressly permitted by license, whether such license be granted to individuals or be announced as applying to persons; and

Whereas, by paragraph 3 of proclamation dated 8th October, 1914, power to grant such licenses on behalf of the Crown may be exercised in India by the Governor General:

Now, therefore, I, Charles Baron Hardinge of Penshurst, hereby authorize all persons residing, being, or carrying on business in British India to pay any fees necessary for obtaining the grant, or for obtaining the renewal, of patents, or for obtaining the registration of trade-marks or designs, or the renewal of such registration, in an "enemy country";

And also to pay on behalf of an "enemy" any fees payable in British India on application for, or renewal of, the grant of a patent, or on application for the registration of designs or the renewal of such registration.

(Signed)

HARDINGE OF PENSURST.

JAPAN.

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BERNE—RATIFICATION, TRANSMITTED FEBRUARY 5, 1915.

On February 5, 1915, the Swiss Federal Council received notice from the Japanese Minister of Foreign Affairs, announcing the ratification by Japan of the Protocol of March 20, 1914, additional to the Convention of Berne, revised at Berlin, November 13, 1908.

Quoting from *Le Droit d'Auteur*, of April, 1915, from which we glean this information, the following observation will be of interest:

The Japanese note adds that His Majesty the Emperor has been pleased to ratify this Protocol, while taking into consideration its international character, and notwithstanding the fact that one of the signatory States is actually in a state of war with the Empire; but this ratification is made under the reservation that it shall affect in no way the position of the Empire toward the enemy State.

INDUSTRIAL PROPERTY—WAR CONDITIONS—STATUS—OFFICIAL STATE-
MENT OF JUNE 7, 1915.

[Translation.]

The Japanese administration has addressed to the International Bureau the following communications:

1.—PROVISIONS FOR SAFEGUARDING THE UNION INTERESTS ENDANGERED BY
REASON OF THE EUROPEAN WAR.

PATENT OFFICE,
Tokio, June 7, 1915.

MR. DIRECTOR: I have the honor to acknowledge receipt of the circular of date of 25th August last, wherein you have requested me to apprise you of all the provisions that Japan counts on taking to safeguard the interests of Union subjects liable to be endangered by reason of the European war.

The office will proceed in this regard with the greatest care. The terms fixed for the payment of taxes and for the formalities to be fulfilled at the Patent Bureau will be prolonged, either voluntarily or on application, through the application of the provisions of the laws concerning patents, utility models, designs, and trade-marks. Even if cases of avoidance occur through non-observance of the terms fixed for formalities, the interested parties will be relieved for one year from the consequences of this non-observance, provided

that the causes of this last result from the present crisis. It is thus that I propose to avoid the wrongs that might result, for Union subjects, from the present state of war.

In conclusion I regret to add that I am not as yet prepared to answer you as regards measures that will be taken concerning subjects of the countries that are at war with the Empire.

Accept, sir, etc.

(Signed) S. SAKIGAWA,
Director of the Patent Office.

PATENTS—TRADE-MARKS—UTILITY MODELS—WAR REGULATIONS OF
JULY 20, 1917—EFFECTIVE SEPTEMBER 15, 1917.

[Translation.]

ARTICLE 1. Patents or registrations shall be suspended during the period of the war for applications or petitions of alien enemies for the ownership of industrial property.

In case the inventions, designs, or utility models, mentioned in the said applications and petitions, come under either of the following headings during the war, they shall not be patented or registered:

- (1) When the inventions are known or used in Japan.
- (2) When the inventions are described in publications distributed in Japan to such an extent that the description can easily be put in practice.

ART. 2. Alien enemies shall not be entitled to make application for trial or for hearing on appeal, nor to make appeal from judgment of hearing on appeal.

ART. 3. Alien enemies can not claim the priority of Article 4 of the International Convention for the Protection of Industrial Property in the matter of a patent right that comes into existence during the period of the war.

ART. 4. Patents or trade-marks owned by alien enemies may be revoked or canceled when, under the present circumstances, it is deemed necessary for military reasons or for the public interest.

ART. 5. Patents owned by alien enemies may be used exclusively by a party having the permission of the Government. This applies to such patents as shall be revoked under the preceding article.

The term of the exclusive right obtained under this article shall be determined in accordance with the period of the patent yet to run.

Necessary regulations pertaining to the exclusive right are to be determined by imperial ordinance.

ART. 6. Trade-marks that are identical with or similar to those trade-marks whose registration is to be canceled in accordance with Article 4, and which are to be affixed to the same merchandise, are not to be registered.

ART. 7. Applications, petitions, and actions of, or patents and trade-marks obtained by non-belligerent persons, shall be subject, in case there be interest of alien enemies, to the provisions of the preceding six articles.

ART. 8. As concerns matters to be adjusted at the conclusion of the war, they shall be determined by imperial ordinance.

ART. 9. Any party that infringes the exclusive right obtained under the present provisions shall be sentenced to penal servitude for not exceeding five years or to a fine of not more than 1,000 yen.

The date of the present regulations becoming effective shall be determined by imperial ordinance.

(Translation furnished by Mr. Haruhiko Iida, M. E., of Tokyo.)

RUSSIA.

[Law of the 20th of May (1st of June), 1896.]

His Majesty the Emperor has designed by his Royal authority to confirm and declare to be executed the following opinion of the Government Council, sitting in full meeting, relating to a scheme for the regulation of patents of invention and improvement, and to a table showing the staff and expenditure of the committee for technical business attached to the department of commerce and manufactures.

A.—OPINION OF THE GOVERNMENT COUNCIL.

The Government Council, sitting with the united department of state economy, of laws, and of civil and ecclesiastical business, assembled in full conference, having examined the report of the Minister of Finance relating to a scheme for the regulation of patents of invention and improvement and to a table showing the staff and expenditure of the committee for technical business attached to the department of commerce and manufactures, submits the following opinion:

I.

To modify and enlarge the corresponding articles of the laws relating to Ministries (Codified Laws, Vol. I, part 2, edition 1892), it is ordered that—

1. There shall be a committee for technical business attached to the department of commerce and manufactures competent to grant patents of invention and improvement, and, further, to examine all technical questions which may be referred to by the Minister of Finance.

2. The committee (par. 1), presided over by the director of the department of commerce and manufactures, shall consist of one of the subdirectors of the said department, who, in the absence of the president, shall preside; nine permanent members, nominated by the Minister of Finance from graduates who have received a superior and preferably a technical education; and members representing the Ministries of War, of the Navy, of the Interior, of Agriculture

and public domains, and to public ways in the proportion of one member to each Ministry.

3. Attached to the committee shall be (1) experts chosen from graduates who have received a superior and preferably a technical education; such experts, who do not enjoy the privileges attached to the Government service, shall be nominated by the president of the committee, to take part in the preliminary examination of applications, and have the same deliberative position as the permanent members of the committee (sec. 2); (2) a superintendent of the affairs of the committee and other employees in accordance with the staff establishment.

4. The committee shall be divided into sections. The Minister of Commerce shall determine the number of sections and allot the business between them. Each section shall be presided over by one of the permanent members appointed for this purpose by the Minister of Finance. Appeals against the decisions of the sections shall be considered by the committee in full meeting.

5. The quorum of members to be present at meetings of the sections is fixed at a minimum of three, including the president.

6. At the meetings of the sections, and of the full committee, questions shall be decided by a majority of votes, and if the votes be equally divided, that of the president shall be decisive. Decisions given by the committee in full meeting shall be submitted for confirmation to the Minister of Finance.

II.

Schemes (a) for enactments as to patents of invention and improvement, and (b) for the staff establishment and expenditure of the committee of technical business attached to the department of commerce and manufactures shall be presented to His Majesty the Emperor for his sovereign confirmation.

III.

The following posts on the staff establishment of the department of commerce and manufactures (Codified Laws and Decrees, 1894, No. 26, Art. 191), supremely confirmed on the 25th of January, 1894, are abolished: One head of a section, three heads of offices, three underheads of offices, and five experts attached to the Council of Commerce and Manufactures. The persons at present holding these posts shall be retired in accordance with the general rules if they do not receive fresh nominations.

IV.

To modify and amend the provisions relating to taxes (Codified Laws, Vol. V, edition 1893) it is ordered that—

1. The following taxes are payable for the benefit of the treasury for each patent of invention or improvement:

	Roubles.		Roubles.
First year.....	15	Ninth year.....	125
Second year.....	20	Tenth year.....	150
Third year.....	25	Eleventh year.....	200
Fourth year.....	30	Twelfth year.....	250
Fifth year.....	40	Thirteenth year.....	300
Sixth year.....	50	Fourteenth year.....	350
Seventh year.....	75	Fifteenth year.....	400
Eighth year.....	100		

2. The taxes specified in the preceding paragraph (1) shall be paid for the first year within the term of three months from the notice informing the applicant that the committee of technical business attached to the department of commerce and manufactures has allowed the grant of the patent. For the following years, each year in advance, counting from the date on which the patent was signed. No tax can be returned.

3. In the case of the proved property of a Russian subject applying on his own behalf for a patent, the Minister of Finance may exempt him for the first three years from the payment of the taxes referred to in paragraph 1.

4. For each patent of addition delivered to a person already possessing a patent of invention or improvement (Art. 27 of the patent law) a single tax of 20 rubles is payable for the benefit of the treasury.

V.

Article 570, paragraph 2 of Article 572, and paragraph 8 of Article 61 of the appendix to Article 619 of "Constitution of Ministries" (Codified Laws, Vol. I, pt. 2, issue of 1892 and sequel of 1895), Articles 167 to 175 and 177 to 198 of the statutes of trade (Codified Laws, Vol. XI, pt. 2, issue of 1893), Article 16 of agricultural statutes (Codified Laws, Vol. XII, pt. 2, issue of 1893), and Articles 553 and 554 of medicinal statutes (Codified Laws, Vol. XIII, issue of 1892), are repealed, and the words, "and patents" are struck out from paragraph 5 of Article 70 of the appendix to Article 619 of "Constitution of Ministries" (Codified Laws, Vol. I, pt. 2, sequel 1895).

VI.

Article 176 of the industrial law (Codified Laws, Vol. VI, pt. 2, issue of 1893)¹ will remain temporarily in force.

VII.

These provisions shall come into force the 1st (13th) of July, 1896.

VIII.

It is decreed: (1) That questions concerning the grant of patents of invention or improvement, in which at the date fixed by Section II; if the patent be granted, the fees paid before the coming into shall be decided in accordance with the enactments as to patents of invention and improvement referred to in paragraph (a) of Section II; if the patent be granted, the fees paid before the coming into force of the present law shall not be returned, but shall be credited toward the amount of the fees due under section 4; if the patent be refused, or if the applicant abandon the application, Article 184 of the regulations on industry shall apply (Codified Laws, Vol. XI, pt. 2, issue of 1893);² and (2) that all patents granted prior to the date fixed by Section VII, and still valid, may be prolonged on application by the owners for a period not exceeding 15 years from the date of the signing of the patent, subject to the payment of the taxes specified in section 4 for each additional year, counting from the date of the signing of the patent.

IX.

All expenses incurred by the new committee during the year 1896 shall be met by the credits set free by the abolition of the posts enumerated in section 3, and by the conditional grant contained in Article 1, paragraph 1, of the budget of the department of commerce and manufactures ("inspectors of the committee of technical business"). From the 1st January, 1897, the necessary amount shall be entered separately in the budget of the said department.

¹ This article is as follows:

"Patents of invention and improvements relating to munitions of war and to the defense of the State which can only be used by the Government, such as pieces of artillery, projectiles, fuses, and other artillery accessories, armor plates, torpedoes, revolving turrets, etc., can not be granted. For inventions and improvements relating to articles used in the army, but which can also be employed by private persons, such as small arms, metallic cartridges, bullets and other accessories to such weapons, patents may be granted on the condition that they shall have no force against the Ministries of War and the Navy, and shall not preclude such ministries from using the above-mentioned inventions and improvements, or from carrying out the necessary experiments."

² This article is as follows:

"If the grant of the patent be refused the fees paid by the applicant shall be at once returned to him."

B.—PATENTS OF INVENTION AND IMPROVEMENT.

ARTICLE 1. To obtain the right to the exclusive use of an industrial invention or an improvement, any person may apply for a patent by complying with the provisions of this law.

ART. 2. Patents of invention and improvement shall be granted to Russian subjects and foreigners, and not only to inventors themselves but also to those entitled through them.

ART. 3. Patents shall only be granted for inventions and improvements having some essentially new feature, either in their entirety or in one or more of their parts, or in a new combination of their parts when these are already known separately. A single patent may comprise several distinct inventions or improvements if they constitute as a whole a definite process of manufacture and can not be used separately.

ART. 4. Patents shall not be granted for inventions and improvements:

- (a) Which consist of scientific discoveries and abstract theories.
- (b) Which are contrary to public order, morals, and decency.
- (c) Which, prior to the date when the application for the patent was lodged, have been patented in Russia or have been used there without a patent or which have been described in printed books or journals in sufficient detail to enable them to be reproduced.
- (d) Which are known abroad without a patent or which are patented there in the name of a person other than the applicant, except in the case in which the invention has been assigned to the latter.
- (e) Which do not involve any sufficiently essential novelty (Art. 3), but only insignificant modifications of inventions and improvements already known.

Further, no patent shall be granted for chemical, nutritious, and gustatory products, for medical compounds, or for processes and apparatus for the manufacture of the latter.

ART. 5. Any person desirous of obtaining a patent of invention or improvement shall lodge at the department of commerce and manufactures, either personally or by an attorney, an application, accompanied by a complete description in the Russian language of the invention or improvement and a receipt from the treasury certifying the payment of 30 roubles to cover the expenses of examination and publication. If the applicant be domiciled abroad, the application shall be presented by an attorney domiciled in Russia.

[NOTE.—The amount paid in accordance with this article, to cover the expenses of examination and publication, can not be refunded. The Minister of Finance may exempt applicants who are Russian subjects from the payment of the said sum, if they show that they are without resources.]

ART. 6. The description mentioned in the preceding Article 5 must be clear, precise, and detailed, and must be accompanied, if the circumstances render it necessary, by explanatory drawings and models, so that it may be possible with these data easily to reproduce the invention or improvement without recourse to suppositions or conjectures. The description must conclude with an enumeration of the distinctive characteristics of the invention or improvement which in the opinion of the applicant constitute its novelty (Art. 3). During the three months which follow the deposit of the application, the applicant shall have the right to introduce modifications and additions to the description deposited, without, however, altering its substance.

ART. 7. When the applicant has satisfied the provisions of Article 5, the department of commerce and manufactures shall deliver to him or send him by post a certificate of protection, the form of which shall be established by the Minister of Finance; each certificate granted shall form the subject of a corresponding publication in the *Official Messenger* and the *Journal of Finance, Industry, and Commerce*.

ART. 8. After having received the certificate of protection (Art. 7) the applicant may, without losing his rights to the patent, communicate his invention or improvement to anyone, may publish it, or may make public trials, may have it manufactured, may transfer to others his rights to the patent, and may warn, either privately or notarially, persons who are about to infringe his rights, with the object of informing them that, should a patent be granted to him, they will be liable to proceedings in the courts for any infringement committed by them between the date of publication of the delivery of the certificate of protection (Art. 7) and that of the signature of the patent (Art. 20).

ART. 9. A certificate of protection shall cease to be in force if the patent be refused. The lapsing of this certificate shall be published in the journals mentioned in Article 7.

ART. 10. If, before the patent has been granted, any person present to the department of commerce and manufactures a declaration, supported by sufficient proofs, stating that the invention or the improvement has already been known or used, the department shall communicate to the applicant the contents of this declaration, giving him a term of three months (dating from the day on which he receives the notice) to make explanations in this respect. If the above-mentioned declaration accuse the applicant of having appropriated the invention or improvement of another, the examination of the application shall be suspended and the parties invited to present themselves before the law courts.

ART. 11. Every application for a patent, after having been previously examined by a permanent member or one of the experts of the committee of technical business of the department of commerce and manufactures, shall be forwarded with the report of the said member or expert to the corresponding section of the committee, which shall give its decision.

ART. 12. The president of the committee may invite the applicants or their attorneys and experts to take part in the sittings, so that they may supply verbal explanations; but applications shall be discussed and decisions arrived at in the absence of such persons.

ART. 13. The committee shall not examine into the utility or advantages of the invention or improvement, nor whether it belong to the applicant. It shall only decide upon the question as to whether the application and the description of the invention or improvement comply with the conditions laid down by Articles 3 and 6.

ART. 14. When the deliberations have terminated, the section of the committee shall decide either to grant the patent in accordance with the request of the applicant or with certain restrictions or modifications, or to reject the application. The decision of the section shall be communicated to the applicant with a statement of the reasons for refusal or for the restrictions or modifications required.

ART. 15. A patent of invention or improvement shall be granted to the person who first makes the application, although other persons may have lodged applications for a patent for the same invention or improvement while the application was still in course of examination. The case in which the first inventor is accused of having appropriated the invention or improvement of another (Art. 10) is excepted. If two or more applications for a patent of invention or improvement be lodged by different persons in the course of the same day, and if these inventions be recognized as novel but evidently identical, the department shall address to the applicants an official communication, inviting them to come to an understanding with the object of their receiving a single patent in their joint names. If such an understanding be not arrived at within three months from the time when the applicants have received the said communication the granting of the patent shall be refused, except in the case where the priority of one of the applicants is established in the law courts.

ART. 16. Patents of invention and improvement shall be granted according to the request of the applicants for any period not exceeding 15 years counting from the date on which the patent was signed (Art. 20). A patent for an invention or improvement already patented abroad before the date of the lodging of the application for the Russian patent shall not have a longer term than that of the foreign patent; if the invention or improvement be patented in several foreign States, the Russian patent shall cease to be in force with

the expiration of the shortest term for which a patent was granted abroad.

ART. 17. If the grant of the patent be allowed, the applicant shall, within three months from the receipt of the notice, present to the department of commerce and manufactures a receipt from the treasury certifying the payment of the tax due for the first year. If this be not done, the application shall lapse, and any subsequent application shall be treated as a new application.

ART. 18. If the applicant be not satisfied with the decision given by the section of the committee, he shall have a right to address to the department of commerce and manufactures, within three months from the date when this decision is notified to him, an appeal accompanied by a receipt from the treasury certifying the payment of 15 roubles.

ART. 19. The above-mentioned appeals (Art. 18), with the documents relating thereto, shall be laid before experts who have not taken part in the first examination by the section of the committee. They shall then be transmitted, with the opinions of the new experts, for the decision of the committee in full sitting. The experts who have taken part in the first examination by the section may be present and speak but not vote at the full sitting.

ART. 20. When the grant of the patent has been allowed, and when the taxes have been paid (Art. 17), the department of commerce and manufactures shall cause letters patent to be prepared for delivery to the applicant. This document shall commence with the words "By Ukase of His Majesty the Emperor," and must contain:

- (1) The Christian and surname of the applicant.
- (2) The date on which the application was lodged, and also that on which the patent was signed.
- (3) The complete and detailed description of the invention or improvement.
- (4) The statement of the distinctive characteristics of the invention or improvement which constitute its novelty.
- (5) The term for which the patent is granted.
- (6) A statement that no other patent has before been granted for the same invention or improvement.
- (7) A notice that the Government does not guarantee the utility of the invention or improvement, or that it belongs to the applicant, and that the invention or improvement must be worked in Russia within the period indicated by the law (Art. 24).

If the patent have been granted for an addition to or modification of an invention or improvement belonging to another (Art. 28), the document shall contain the reservation that working under the patent must be previously authorized by the said person. The letters patent shall be signed by the Minister of Finance and countersigned by the

director of the department of commerce and manufactures, who shall affix the seal of the department.

ART. 21. The grant of each patent shall be published in the journals mentioned in Article 7, with the title of the invention.

(1) Every patent shall, within three months at the latest from its issue, be published in a detailed and complete manner in a special periodical journal named by a decree of the Minister of Finance, and such decree shall be transmitted to the directing senate, in order that it may be duly published.

(2) The department of commerce and manufactures shall publish an annual list of all patents granted, and shall establish a register of patents granted, and shall preserve the specifications, which shall be open to the public.

ART. 22. The patentee shall have the exclusive right to work the patented invention or improvement during the whole term for which the patent has been granted. He may consequently—

(1) Carry out the invention or improvement, take proper measures to bring it into use, and authorize other persons to carry it out.

(2) Assign the patent for the whole or part of its term.

(3) Take legal proceedings against unauthorized working of his patent as well as against every other infringement of his rights committed subsequently to the publication of the grant of the certificate of protection (Arts. 7 and 8), and likewise bring actions for damages. After the decease of the patentee or of the person entitled through him, the right to the patent shall pass to the testamentary or legal heirs in accordance with the general rules of inheritance.

ART. 23. The grant of a patent shall not exempt the owner from the operation of laws and decrees which are or shall be enacted for regulating the working of patented inventions or improvements.

ART. 24. The owner of a patent shall, within five years from the date of signing the patent (Art. 20), put the patented invention or improvement into work in Russia, and within the same period shall submit to the department of commerce and manufactures a certificate of such working from a competent authority nominated by the Minister of Finance.

ART. 25. In the case of the transfer of a patent (Art. 22 (2)) notice shall be given to the department of commerce and manufactures, accompanied by the documents proving the transfer. The department shall publish the transfer of the patent at the expense of the applicant in the journals indicated in Article 7.

ART. 26. The grant of a patent shall not prevent any one from contesting before the law courts during the two years that follow the publication of the complete description (Art. 21 (1)) the right of the owner to the patented invention or improvement, whether in its entirety or in certain of its parts or the regularity of the granting

of the patent. After the expiration of his period, the patent shall only be annulled by decision of a criminal court after a penal prosecution.

ART. 27. During the time a patent remains in force, the owner, on complying with the provisions contained in Articles 5 and 6, and on paying the single special tax, shall have the right to demand the grant of a patent of addition for the purpose of improving the original patent by the addition of new parts or new particulars relating to the practical use of his invention or improvement. A patent of addition shall expire at the same time as the principal patent.

ART. 28. After the expiration of one year from the publication of the grant of a patent (Art. 21) any one may, in conformity with the provisions contained in the present law, obtain a patent for an invention or improvement supplementing or altering the first patent. This second patent shall not be used by the owner of the original patent or by those entitled through him, nor by the owner of the second patent, except by the mutual consent of the parties. The same rule shall apply to patents granted for new combinations of parts of which some are already patented in Russia (Art. 3).

ART. 29. A patent shall cease to be in force:

- (1) At the expiration of its term (Art. 16).
- (2) In the case of non-payment in advance of the proper annual fees.
- (3) In the absence of the working required by Article 24.
- (4) When the courts have decided (Art. 26) that the patent has been granted in an irregular manner, or to a person who had not the right to obtain it.
- (5) If it be proved that the description accompanying the application for the patent (Art. 6) is not sufficient to allow of the invention or improvement being worked without the aid of the inventor.

Publication shall be made in the journals mentioned in Article 7 of patents which have ceased to be in force.

ART. 30. In the case of the loss of a certificate of protection or of letters patent, the owner should inform the department of commerce and manufactures, which shall publish the fact in the journals mentioned in Article 7.

A person who has lost the above-mentioned documents may obtain copies on lodging a receipt from the treasury certifying the payment of 10 roubles. Copies of certificates of protection shall be delivered immediately, and copies of letters patent not later than one month from the last publication of the loss of the original.

ART. 31. The Minister of Finance is authorized to issue detailed rules concerning the execution of the present law, on the condition,

however, that such rules shall not be contrary to this law, and shall not relate to matters which from their nature ought to be submitted to judicial or legislative examination. Such rules shall be transmitted to the directing senate in order that they may be duly published.

Staff and expenses of the technical committee attached to the department of commerce and manufactures.

	Number of em- ployees.	Salaries.			
		Salary.	Allowance in lieu of board.	Allowance in lieu of lodgings.	Total.
		<i>Roubles.</i>	<i>Roubles.</i>	<i>Roubles.</i>	<i>Roubles.</i>
Permanent members.....	19				
Director.....	1	1,800	600	600	3,000
Heads of departments.....	3	900	400	400	5,100
Assistants.....	6	600	180	180	5,760
Secretary.....	1	400	150	150	700
Copying clerks, office library, and sundry expenses.....					7,440
Total.....					37,000

¹ Divided according to instructions of the minister of finance.

Remarks.

1. The posts indicated in the above list may be filled by persons not holding corresponding rank, or not holding any rank at all, and also by persons not having the right of entering the civil service, the last of these persons enjoying all the privileges attached to such posts, but not taking the rank corresponding thereto.

2. The remuneration of permanent members, as well as of the experts for preliminary examination of applications for patents for inventions and improvements, shall be met from the credit assigned in the budget of the department of commerce and manufactures for the expenses connected with the granting of patents.

RUSSIA—WAR LEGISLATION.

PATENTS—ENEMY COUNTRIES—WAR MEASURES—DECREE OF FEBRUARY 21, 1915.

We are indebted to Messrs. Kaupe and Tschekaloff, of Petrograd, for advice that, in accordance with the regulation of the Council of Ministers and by virtue of Article 87 of the fundamental state laws, in amendment and completion of the corresponding decrees, an imperial decree of February 21, 1915, ordered that:

[Translation.]

1. Patents for industrial inventions or improvements shall not be granted to subjects of powers at war with Russia, nor are applications for such patents accepted, the examination of same having been discontinued.

2. Patents for inventions and improvements, belonging to subjects of powers at war with Russia, and being of utility in the defense of the State, shall be appropriated by the Empire. The Minister of Trade and Industry, in agreement with the Ministers of War and the Navy, shall draw up a list of such patents for the information of whomever it may concern, which, within a term of two months from the date of the promulgation of the present regulation, shall be published in the newspapers mentioned in Article 76 of the Statute of Manufacture and Trades. (Code of Laws, Vol. XI, pt. 2, 1913.)

The validity of all other patents belonging to the parties in this section (2) is annulled.

3. The right of use or license of inventions or improvements obtained before January 1, 1915, by parties not subjects of powers at war with Russia, from persons being subjects, shall remain in force for the term fixed and to the extent determined. The patents for these inventions and improvements not coming under the first part of section 2 of the present decree shall remain valid for the period requisite for the accomplishment of the rights of exploitation. The Empire shall be considered the owner of such patents.

4. Parties that wish their rights of exploitation to remain in force (clause 2) are bound either in person or through their agents to lodge an application with the section of industry within a term of one month from the date of the promulgation of the present decree, producing proof in writing of having obtained said right. Within the term of one month from the date of the expiry of the term mentioned, the section of industry shall examine the applications filed, drawing up and publishing in the newspapers, as stipulated in Article 76 of the Statute of Manufacture and Trade (Code of Laws, Vol. XI, pt. 2, 1913), a list of the rights of exploitation considered as having been verified, as, likewise, of the respective patents. The insertion in the list of the rights of exploitation does not deprive the parties interested of the right—for the term of two years from the date of the publication of the list—to contest in legal form the ownership of the right of exploitation to its whole acknowledged extent or in part.

5. In the present decree there shall be understood by the expression "subjects of powers at war with Russia," also corporations and partnerships formed in any of the countries at war with Russia, even if they have been allowed to operate in the Russian Empire.

RUSSIA (GERMAN OCCUPATION).

INDUSTRIAL PROPERTY—EXTENSION OF GERMANY LAW—ORDINANCE
No. 70, OF MARCH 11, 1916.

[Translation.]

Ordinance of the Governor General concerning the protection of the rights of German subjects in matters of industrial property in the territory of the Government General of Warsaw. (No. 70, Mar. 11, 1916.)

SECTION 1. Inventions, Gebrauchsmuster, industrial designs and models, and trade-marks that are or shall be protected according to the laws:

(a) Concerning patents, of April 7, 1891 (*Reichsgesetzblatt*, 1891, p. 79);

(b) Concerning the protection of Gebrauchsmuster, of June 1, 1891 (*Reichsgesetzblatt*, 1891, p. 290);

(c) Concerning the copyright over designs and models, of June 11, 1876 (*Reichsgesetzblatt*, 1876, p. 11);

(d) Concerning the protection of trade-marks, of May 12, 1894 (*Reichsgesetzblatt*, 1894, p. 441), may not be used commercially without the authorization of the party interested.

SEC. 2. Violations shall be punished by fine up to 10,000 marks, or imprisonment for as much as two years. These two kinds of punishment may be pronounced cumulatively. Instigators, counterfeiters, and receivers shall be treated as the principal author.

Prosecution shall take place only on the complaint of the party interested. The complaint may be withdrawn. Persons that have their seat or their domicile elsewhere than in the territory of the German Empire or of the Government General of Warsaw shall not be authorized to make accusation.

SEC. 3. In place of the indemnity due for violation of the present ordinance, and on application of the injured party, there may be awarded to this latter, in addition to the fine, damages up to 50,000 marks. All of the parties convicted shall be jointly and severally responsible for the payment of these damages.

SEC. 4. The departmental tribunals are alone competent to take cognizance of violations punishable by virtue of the present ordinance. For the procedure concerning the award of damages, there shall be applied by analogy sections 443 to 445 of the German code of penal procedure.

(Bulletin of ordinances for the Government General of Warsaw, No. 25, of Mar. 22, 1916.) (From 32 *La Propriété Industrielle*, 54; see *Blatt für Patent-, Muster- u. Zeichenwesen*, Apr. 26, 1916, p. 51.)

INDUSTRIAL PROPERTY—EXTENSION OF GERMAN LAWS—WHO MAY PROSECUTE VIOLATIONS—DECREE (AMENDATORY) No. 155, of OCTOBER 4, 1916.

[Translation.]

Decree of the Governor General which modifies the decree concerning the protection of the rights of German subjects in matters of industrial property within the territory of the Government General of Warsaw.

ARTICLE 1. The second paragraph of section 2 of decree No. 70, of March 11, 1916, concerning the protection of the rights of German subjects in matters of industrial property is modified as follows:

Proceedings shall be instituted only upon complaint of the party interested. The complaint may be withdrawn. Persons that have their seat or their domicile elsewhere than within the territory of the German Empire, of the Government General of Warsaw, or of Austria-Hungary or of territories occupied by Austria-Hungary shall not be authorized to make complaint.

ART. 2. The present decree shall become effective immediately.

(From translation in 33 *La Propriété Industrielle*, 3, of January, 1917, taken from *Blatt für Patent-, Muster-, und Zeichenwesen*.)

RUSSIA.

PATENTS—RELIEF MEASURES—"WAR MEASURES"—REGULATION OF OCTOBER 31, 1917.

[Translation.]

Regulation of the provisional government, of October 31, 1917.

ART. 1983. Regarding the non-publication of inventions whereof the publication might be inimical or inexpedient as regards the national defense, the provisional Government stipulated in the *Journal* of May 11, 1917, concerning the amendment and complement of the laws:

During the duration of the war of the State all inventions whereof the promulgation might be inimical or inexpedient as regards the national defense shall be held secret, independently of expropriation for the benefit of the State, and, furthermore, the usual publication of the filing certificate shall not be made, as likewise the delivery of patents for the above inventions shall be delayed until after the conclusion of the war.

ART. 1984. Concerning the restitution of non-observed terms as regards acceptance of treasury tax receipts for patents of invention, the provisional Government has stipulated in the *Journal* of June 30, 1917:

To authorize the Minister of Commerce and Industry during the war, in extremely well-grounded cases, to reinstate the non-observed terms, indicated in Articles 89 and 98 of the code of industry, fabrics, and commerce (Code of

Laws, Vol. XI, p. 2, edition of 1913) and also to accept tax receipts of the treasury as regards the payment of taxes and fees subsequent to the expiry of the terms fixed in Articles 368 and 371 of the regulation of taxes (Code of Laws, Vol. V, edition of 1914), and addenda to Article 198¹⁹ of the code of industry (Coll. of Laws, 1914, Art. 1876).

NOTE.—The various provisions referred to in the preceding stipulation (Art. 1984) are the following:

Statute of industry, Art. 89.—The applicant, not being satisfied with the decision of the committee, may appeal within three months from the date on which this decision was notified to him, on first filing a treasury tax receipt certifying the payment of 15 roubles.

Statute of industry, Art. 96.—The owner of a patent must within five years from the date of the signature of the patent work the patented invention or improvement in Russia and within the same period must lodge with the section of industry a certificate of such working, from a competent authority nominated by the Minister of Commerce and Industry.

Tax regulation, Art. 368.—The tax indicated * * * must be paid—for the first year that the patent is in force during the three months beginning from the day on which the applicant received notice of the acceptance of his petition by the Technical Committee of the Section of Industry of the Ministry of Commerce and Industry, and for the following—in advance of each year as long as the patent remains in force—counting from the day of the signature thereof. The fee paid is to be refunded in no case whatever.

Tax regulation, Art. 371.—In case of delay in the payment to the treasury of the State of the tax indicated in Articles 367 and 368, a fine will be required, of 10 per cent of the tax due for the first, 15 per cent for the second, and 25 per cent for the third delayed month, counting fractions of a month as a full month. No delay extending beyond three months will be allowed.

Statute of industry, Art. 198¹⁹.—From the beginning of the second year of the term of the patent the treasury tax receipt for the payment of the tax fixed by Article 367 of the regulation concerning taxes shall be filed by the owner of the patent in the section of industry not later than three months from the day on which the tax shall have been paid into the treasury.

(Translation by Messrs. Kaupe & Tschekaloff, Petrograd.)

ROUMANIA.

[Law No. 862 of 18th August, 1917.]

There is granted a prolongation of the terms for the payment of the annual taxes on patents belonging to Roumanian subjects and the subjects of allied or neutral States, beginning from the 14th August, 1916, throughout the duration of the war, and until a date which will be determined later by the Ministry of Industry and Commerce by a notice published in the *Official Moniteur*.

The same prolongation is granted to all the beneficiaries under patents who are Roumanian subjects or subjects of the allies or neutrals who obtain patents after the date from which the present law has been decreed. This prolongation will not profit subjects of allied or neutral countries unless a parallel prolongation is granted in these countries in the favor of Roumanian subjects who are interested in patents. While in the countries above mentioned prolongation will be given to allies or neutrals from 19th July, 1914, the date of the commencement of the European war, this prolongation will apply in Roumania also, from the same date in favor of Roumanian subjects who are holders of patents.

UNITED STATES OF AMERICA.

PATENT LAWS.

THE CONSTITUTIONAL PROVISION.

The Congress shall have power * * * to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. (Art. I, sec. 8.)

The Consolidated Patent Act from which the sections of Revised Statutes relating to patents were chiefly compiled was passed July 8, 1870 (16 Stat. L., 198). As to sections 490, 491, 492, 493, 894, and 4934, see also Resolution No. 5 of January 11, 1871 (16 Stat. L., 590), and act of March 24, 1871 (17 Stat. L., p. 2).

Where sections have been amended since passage, the amending act is cited in the margin.

Sections of the Revised Statutes (except first three below) are arranged in numerical order. Other statutes are inserted as far as possible after the sections of the Revised Statutes to which their subject matter is related.

ORGANIZATION OF THE PATENT OFFICE.

Revised Statutes, Title XI.

SEC. 475. There shall be in the Department of the Interior an office known as the Patent Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one Assistant Commissioner, and three examiners in chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employees authorized by law for the office shall be appointed by the Secretary of the Interior, upon the nomination of the Commissioner of Patents. [See sec. 169.]

Position of First Assistant Commissioner was created in the appropriation act of March 4, 1909 (35 Stat. L., 891) ; salary, \$4,500 a year.

SEC. 477. The salaries of the officers mentioned in the preceding section shall be as follows:

The Commissioner of Patents, \$4,500 a year.

The Assistant Commissioner of Patents, \$3,000 a year.

Three examiners in chief, \$3,000 a year each.

Present salaries given under "Appropriations," *post*, page 406.

SEC. 440. There shall also be in the Department of the Interior—

* * * * *

In the Patent Office:

One chief clerk, at a salary of \$2,500 a year.

One examiner in charge of interferences, at a salary of \$2,500 a year.

One examiner in charge of trade-marks, at a salary of \$2,500 a year.

Twenty-four principal examiners, at a salary of \$2,500 a year each.

Twenty-four first assistant examiners, at a salary of \$1,800 a year each.

Twenty-four second assistant examiners (two of whom may be women), at a salary of \$1,600 a year each.

Twenty-four third assistant examiners, at a salary of \$1,400 a year each.

One librarian, at a salary of \$2,000 a year.

One machinist, at a salary of \$1,600 a year.

Three skilled draftsmen, at a salary of \$1,200 a year each.

Thirty-five copyists of drawings, at a salary of \$1,000 a year each.

One messenger and purchasing clerk, at a salary of \$1,000 a year.

One skilled laborer, at a salary of \$1,200 a year.

Eight attendants in the model room, at a salary of \$1,000 a year each.

Eight attendants in the model room, at a salary of \$900 a year each.

For present employees and their salaries, see under "Appropriations," *post*, page 406.

SEC. 441. The Secretary of the Interior is charged with the supervision of public business relating to the following subjects:

* * * * *

Fifth. Patents for inventions.

Jurisdiction of the Secretary on appeal from commissioner.—*Butterworth v. Hoe*, 112 U. S., 50-60; 29 O. G., 615.

SEC. 478. The seal heretofore provided for the Patent Office shall be the seal of the office, with which letters patent and papers issued from the office shall be authenticated.

SEC. 479. The Commissioner of Patents and the chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of \$10,000 and the latter in the sum of \$5,000, conditioned for the faithful discharge of their respective duties, and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

SEC. 480. All officers and employees of the Patent Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the office.

SEC. 481. The Commissioner of Patents, under the direction of the Secretary of the Interior, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office.

Duties of commissioner.—*Butterworth v. Hoe*, 112 U. S., 50; 29 O. G., 615.

SEC. 482. The examiners in chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

SEC. 483. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

SEC. 484. The Commissioner of Patents shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in the Patent Office; and the rooms and galleries shall be kept open during suitable hours for public inspection.

See act May 22, 1908, ch. 186; 35 Stat. L., 229, providing for removing and storing valuable models and disposing of others; superseded in part by act Mar. 4, 1909, ch. 298, 35 Stat. L., 924: "That all models of the Patent Office be retained by the Interior Department until provision is made for their care by Congress."

SEC. 485. The Commissioner of Patents may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the Treasury, as other patent moneys are directed to be paid.

SEC. 486. There shall be purchased for the use of the Patent Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

SEC. 487. For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent agent, either generally or

in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the appeal of the Secretary of the Interior.

SEC. 488. The Commissioner of Patents may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

SEC. 489. The Commissioner of Patents may print, or cause to be printed, copies of the claims of current issues, and copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public.

See paragraph "Sixth" of act of Jan. 12, 1895, *post*, p. 386.

SEC. 490. The Commissioner of Patents is authorized to have printed, from time to time, for gratuitous distribution, not to exceed 150 copies of the complete specifications and drawings of each patent hereafter issued, together with suitable indexes, one copy to be placed for free public inspection in each capitol of every State and Territory, one for the like purpose in the clerk's office of the district court of each judicial district of the United States, except when such offices are located in State or Territorial capitols, and one in the Library of Congress, which copies shall be certified under the hand of the commissioner and seal of the Patent Office, and shall not be taken from the depositories for any other purpose than to be used as evidence. (See sec. 894.)

Superseded by act of Jan. 12, 1895, ch. 23, sec. 73, par. 5; 28 Stat. L., 620, which was repealed by act of Aug. 24, 1912 ("Sundry civil" act, No. 302). Sec. 491, R. S., and sec. 12 of the act of Mar. 3, 1875, 18 Stat. L., 402, were disposed of in like manner.

Res. No. 35 of June 28, 1902; 32 Stat. L., 746, made the Carnegie Library, of Pittsburgh, the place of deposit for the western district of Pennsylvania.

Act of Jan. 12, 1895.

SEC. 73.

* * * * *

The Commissioner of Patents, upon the requisition of the Secretary of the Interior, is authorized to continue the printing of the following:

First. The patents for inventions and designs issued by the Patent Office, including grants, specifications, and drawings, together with copies of the same, and of patents already issued, in such number as may be needed for the business of the office.

Second. The certificates of trade-marks and labels registered in the Patent Office, including descriptions and drawings, together with copies of the same, and of trade-marks and labels heretofore registered, in such numbers as may be needed for the business of the office.

Third. The Official Gazette of the United States Patent Office in numbers sufficient to supply all who shall subscribe therefor at \$5

per annum; also to exchange for other scientific publications desirable for the use of the Patent Office; also to supply one copy to each Senator, Representative, and Delegate in Congress; also to supply one copy to eight such public libraries having over 1,000 volumes, exclusive of Government publications, as shall be designated by each Senator, Representative, and Delegate in Congress, with 100 additional copies, together with bimonthly and annual indexes for all the same; of the Official Gazette the "usual number" shall not be printed.

Fourth. The Report of the Commissioner of Patents for the fiscal year, not exceeding 500 in number, for distribution by him; the Annual Report of the Commissioner of Patents to Congress, without the list of patents, not exceeding 1,500 in number, for distribution by him; and of the Annual Report of the Commissioner of Patents to Congress, with the list of patents, 500 copies for sale by him, if needed, and in addition thereto the "usual number" only shall be printed.

Fifth. Repealed by act of August 24, 1912 ("Sundry civil" act, No. 302). (See sec. 490, R. S., *ante*, p. 385.)

Sixth. Pamphlet copies of the rules of practice, pamphlet copies of the patent laws, and pamphlet copies of the laws and rules relating to trade-marks and labels, and circulars relating to the business of the office, all in such numbers as may be needed for the business of the office. The "usual number" shall not be printed. (See sec. 489, R. S., *ante*, p. 385.)

Seventh. Annual volumes of the decisions of the Commissioner of Patents and of the United States courts in patent cases, not exceeding 1,500 in number, of which the "usual number" shall be printed, and for this purpose a copy of each shall be transmitted to Congress promptly when prepared.

Eighth. Indexes to patents relating to electricity, and indexes to foreign patents, in such numbers as may be needed for the business of [the] office. The "usual number" shall not be printed.

All printing for the Patent Office making use of lithography or photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commissioner of Patents, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe, and all other printing for the Patent Office shall be done by the Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe: *Provided*, That the entire work may be done at the Government Printing Office whenever in the judgment of the Joint Committee on Printing the same would be to the interest of the Government. (Superseding sec. 492, R. S.).

Revised Statutes, Title XI.

SEC. 493. The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents: *Provided*, That the maximum cost of a copy shall be ten cents.

SEC. 494. The Commissioner of Patents shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses, a list of all patents which were granted during the preceding year, designating under proper heads the subjects of such patents; an alphabetical list of all the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public. (See secs. 195, 196.)

SEC. 496. All disbursements for the Patent Office shall be made by the disbursing clerk of the Interior Department.

SEC. 892. Written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of letters patent authenticated by the seal and certified by the commissioner or acting commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law, shall have certified copies thereof.

SEC. 893. Copies of the specifications and drawings of foreign letters patent certified as provided in the proceeding section shall be *prima facie* evidence of the fact of the granting of such letters patent, and of the date and contents thereof.

SEC. 894. The printed copies of specifications and drawings of patents, which the Commissioner of Patents is authorized to print for gratuitous distribution, and to deposit in the capitols of the States and Territories, and in the clerk's offices of the district courts, shall, when certified by him and authenticated by the seal of his office, be received in all courts as evidence of all matters therein contained. (See sec. 490.)

SEC. 973. When judgment or decree is rendered for the plaintiff or complainant, in any suit at law or in equity, for the infringement of a part of a patent, in which it appears that the patentee, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented of which he was not the original and first inventor, no costs shall be recovered, unless the proper disclaimer, as provided by the patent

laws, has been entered at the Patent Office before the suit was brought. (See secs. 4917, 4922.)

SEC. 1537. No patented article connected with marine engines shall hereafter be purchased or used in connection with any steam vessels of war until the same shall have been submitted to a competent board of naval engineers, and recommended by such board, in writing, for purchase and use. (From act of July 18, 1861, 12 Stat. L., p. 268.)

PATENTS.

Revised Statutes, Title LX.

SEC. 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office in books to be kept for that purpose.

SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of 17 years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

SEC. 4885. Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the time at which the application was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, not known or used by others in this country, before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor. (For appropriation for investigating public use, etc., see under "Appropriations," post, p. 406.)

Section 8 of the act of March 3, 1897, amending sections 4886, 4887, 4894, and 4920, Revised Statutes, reads as follows: "That this act shall take effect January first, eighteen hundred and ninety-eight, and sections one, two, three, and four, amending sections forty-eight hundred and eighty-six, forty-nine hundred and twenty, forty-eight hundred and

eighty-seven, and forty-eight hundred and ninety-four of the Revised Statutes, shall not apply to any patent granted prior to said date, nor to any application filed prior to said date, nor to any patent granted on such an application." (29 Stat. L., 694.)

SEC. 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than 12 months, in cases within the provisions of section 4886 of the Revised Statutes, and four months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privilege to citizens of the United States shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same invention, discovery, or design was first filed in such foreign country, provided the application in this country is filed within 12 months in cases within the provisions of section 4886 of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than two years prior to such filing.

(See note following sec. 4886, *supra*.)

SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor and attested by two witnesses.

SEC. 4889. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of the drawing, to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

SEC. 4890. When the invention or discovery is of a composition of matter, the applicant, if required by the commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

SEC. 4891. In all cases which admit of representation by model, the applicant, if required by the commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States.

SEC. 4893. On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the commissioner shall issue a patent therefor.

Act of March 3, 1897.

SEC. 7. That in every case where the head of any department of the Government shall request the Commissioner of Patents to expedite the consideration of an application for a patent it shall be the duty of such head of a department to be represented before the commissioner in order to prevent the improper issue of a patent.

Revised Statutes, Title XL.

SEC. 4894. All applications for patents shall be completed and prepared for examination within one year after the filing of the ap-

plication, and in default thereof, or upon failure of the applicant to prosecute the same within one year after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable. (See note following sec. 4886, *ante*, p. 388.)

SEC. 4895. Patents may be granted and issued or reissued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application must be made and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and the assignment made before the 8th day of July, 1870. (Last clause is from act of Mar. 3, 1871, ch. 132, 16 Stat. L., 583.)

SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when any person having made any new invention or discovery for which a patent might have been granted becomes insane before a patent is granted the right of applying for and obtaining the patent shall devolve on his legally appointed guardian, conservator, or representative in trust for his estate in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him while sane; and when the application is made by such legal representatives the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or administrator shall be proved by certificate of a diplomatic or consular officer of the United States.

The foregoing section, as to insane persons, is to cover all applications now on file in the Patent Office or which may be hereafter made.

SEC. 4897. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but

who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application must be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing, and the patentee or his assigns or legal representatives may in like manner grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

If any such assignment, grant, or conveyance of any patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of the United States circuit court, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section seventeen hundred and fifty of the Revised Statutes, the certificate of such acknowledgment, under the hand and official seal of such notary or other officer, shall be prima facie evidence of the execution of such assignment, grant, or conveyance.

Act of July 1, 1918 (Bankruptcy Act).

SEC 70. *Title to property.*—The trustee of the estate of a bankrupt, upon his appointment and qualification, and his successor or successors, if he shall have one or more, upon his or their appointment and qualification, shall in turn be vested by operation of law with the title of the bankrupt, as of the date he was adjudged a bankrupt, except in so far as it is to property which is exempt, to all (1) documents relating to his property; (2) interests in patents, patent rights, copyrights, and trade-marks * * *.

Revised Statutes, Title LX.

SEC. 4899. Every person who purchases of the inventor or discoverer, or, with his knowledge and consent, constructs any newly invented or discovered machine, or other patentable article, prior to

the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

SEC. 4900. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this can not be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

SEC. 4901. Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent" or "patentee," or the words "letters patent", or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent" or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offense, to a penalty of not less than one hundred dollars, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

Revised Statutes, Title LX.

SEC. 4902. [This section provided for caveats, and was repealed by the act of June 25, 1910 (ch. 414, 36 Stat. L., 843).]

The act reads:

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That section forty-nine hundred and two of the Revised Statutes be, and the same is hereby, repealed.

SEC. 2. That section forty-nine hundred and thirty-four of the Revised Statutes be amended by striking out the following:

"On filing each caveat, ten dollars."

SEC. 3. That this act shall take effect July first, nineteen hundred and ten, and shall not apply to any caveat filed prior to said date.

Approved, June 25, 1910.

SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the commissioner shall order a reexamination of the case.

SEC. 4904. Whenever an application is made for a patent which, in the opinion of the commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners in chief, as the case may be, within such time, not less than twenty days, as the commissioner shall prescribe.

SEC. 4905. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States or of the State where the officer resides.

SEC. 4906. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpoena for any witness residing or being within such district or Territory, commanding him to appear and testify before any officer in such district or Territory authorized to take depositions and affidavits, at any time and place in the subpoena stated. But no witness shall be required to attend at any place more than 40 miles from the place where the subpoena is served upon him.

SEC. 4907. Every witness duly subpoenaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

SEC. 4908. Whenever any witness, after being duly served with such subpoena, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpoena, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are

paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself.

SEC. 4909. Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, to the board of examiners in chief; having once paid the fee for such appeal.

SEC. 4910. If such party is dissatisfied with the decision of the examiners in chief, he may, on payment of the fee prescribed, appeal to the commissioner in person.

SEC. 4911. If such party, except a party to an interference, is dissatisfied with the decision of the commissioner, he may appeal to the Supreme Court of the District of Columbia, sitting in banc. (See sec. 9, act of Feb. 9, 1893, *post*, p. 396.)

SEC. 4912. When an appeal is taken to the Supreme Court of the District of Columbia, the appellant shall give notice thereof to the commissioner, and file in the Patent Office, within such time as the commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

SEC. 4913. The court shall, before hearing such appeal, give notice to the commissioner of the time and place of the hearing, and on receiving such notice the commissioner shall give notice of such time and place, in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

SEC. 4914. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

SEC. 4915. Whenever a patent on application is refused, either by the Commissioner of Patents or by the Supreme Court of the District of Columbia upon appeal from the commission, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not.

Act of February 9, 1893.

Be it enacted, etc., That there shall be, and there is hereby, established in the District of Columbia a court, to be known as the Court of Appeals of the District of Columbia, which shall consist of one chief justice and two associate justices, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold office during good behavior.

SEC. 9. That the determination of appeals from the decision of the Commissioner of Patents, now vested in the general term of the Supreme Court of the District of Columbia, in pursuance of the provisions of section 780 of the Revised Statutes of the United States, relating to the District of Columbia, shall hereafter be, and the same is hereby, vested in the court of appeals created by this act; and in addition any party aggrieved by a decision of the Commissioner of Patents in any interference case may appeal therefrom to said court of appeals.

Act of March 3, 1911 (Judicial Code).

SEC. 250. Any final judgment or decree of the Court of Appeals of the District of Columbia may be reexamined and affirmed, reversed, or modified by the Supreme Court of the United States, upon writ of error or appeal, in the following cases:

First. In cases in which the jurisdiction of the trial court is in issue; but when any such case is not otherwise reviewable in said Supreme Court, then the question of jurisdiction alone shall be certified to said Supreme Court for decision.

Second. In prize cases.

Third. In cases involving the construction or application of the Constitution of the United States, or the constitutionality of any

law of the United States, or the validity or construction of any treaty made under its authority.

Fourth. In cases in which the constitution, or any law of a State, is claimed to be in contravention of the Constitution of the United States.

Fifth. In cases in which the validity of any authority exercised under the United States, or the existence or scope of any power or duty of an officer of the United States is drawn in question.

Sixth. In cases in which the construction of any law of the United States is drawn in question by the defendant.

Except as provided in the next succeeding section, the judgments and decrees of said court of appeals shall be final in all cases arising under the patent laws, the copyright laws, the revenue laws, the criminal laws, and in admiralty cases, and, except as provided in the next succeeding section, the judgments and decrees of said court of appeals shall be final in all cases not reviewable as hereinbefore provided.

* * * * *

SEC. 251. In any case in which the judgment or decree of said court of appeals is made final by the section last preceding, it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such case to be certified to it for its review and determination, with the same power and authority in the case as if it had been carried by writ of error or appeal to said Supreme Court. It shall also be competent for said court of appeals, in any case in which its judgment or decree is made final under the section last preceding, at any time to certify to the Supreme Court of the United States any questions or propositions of law concerning which it desires the instruction of that court for their proper decision; and thereupon the Supreme Court may either give its instruction on the questions and propositions certified to it, which shall be binding upon said court of appeals in such case, or it may require that the whole record and cause be sent up to it for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there for review by writ of error or appeal.

Revised Statutes, Title LX.

SEC. 4916. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention,

the commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters patent. The specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

SEC. 4917. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

(See secs. 973, 4922.)

PATENT LITIGATION.

Act of March 3, 1911 (Judicial Code).

SEC. 24. The district courts shall have original jurisdiction as follows:

* * * * *

Seventh. Of all suits at law or in equity arising under the patent, the copyright, and the trade-mark laws.

Supreme Court of the District of Columbia in patent causes has district court jurisdiction.—Cochrane v. Deener, 94 U. S., 780; 11 O. G., 687.

SEC. 48. In suits brought for the infringement of letters patent the district courts of the United States shall have jurisdiction, in law or in equity, in the district of which the defendant is an inhabitant, or in any district in which the defendant, whether a person, partnership, or corporation, shall have committed acts of infringement and have a regular and established place of business. If such suit is brought in a district of which the defendant is not an inhabitant, but in which such defendant has a regular and established place of business, service of process, summons, or subpoena upon the defendant may be made by service upon the agent or agents engaged in conducting such business in the district in which suit is brought.

SEC. 128. The circuit courts of appeals shall exercise appellate jurisdiction to review by appeal or writ of error final decisions in the district courts, including the United States district court for Hawaii, in all cases other than those in which appeals and writs of error may be taken direct to the Supreme Court, as provided in section 238, unless otherwise provided by law; and, except as provided in sections 239 and 240, the judgments and decrees of the circuit courts of appeals shall be final in all cases in which the jurisdiction is dependent entirely upon the opposite parties to the suit or controversy being aliens and citizens of the United States, or citizens of different States; also in all cases arising under the patent laws, under the copyright laws, under the revenue laws, and under the criminal laws, and in admiralty cases.

SEC. 239. In any case within its appellate jurisdiction, as defined in section 128, the circuit court of appeals at any time may certify to the Supreme Court of the United States any questions or propositions of law concerning which it desires the instruction of that court for its proper decision; and thereupon the Supreme Court may either give its instruction on the questions and propositions certified to it, which shall be binding upon the circuit court of appeals in such case, or it may require that the whole record and cause be sent up to it for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there for review by writ of error or appeal.

SEC. 240. In any case, civil or criminal, in which the judgment or decree of the circuit court of appeals is made final by the provisions of this title, it shall be competent for the Supreme Court to require, by certiorari or otherwise, upon the petition of any party thereto, any such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ of error to the Supreme Court.

For similar provisions as to cases in the District of Columbia, see *ante*, p. 397.

SEC. 256. The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States:

* * * * *

Fifth. Of all cases arising under the patent-right, or copyright laws of the United States.

Revised Statutes, Title LX.

SEC. 4918. Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

SEC. 4919. Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

Act of June 25, 1910.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever an invention described in and covered by a patent of the United States shall hereafter be used by the United States without license of the

owner thereof or lawful right to use the same, such owner may recover reasonable compensation for such use by suit in the Court of Claims: *Provided, however*, That said Court of Claims shall not entertain a suit or reward compensation under the provisions of this act where the claim for compensation is based on the use by the United States of any article heretofore owned, leased, used by, or in the possession of the United States: *Provided further*, That in any such suit the United States may avail itself of any and all defenses, general or special, which might be pleaded by a defendant in an action for infringement, as set forth in Title LX of the Revised Statutes, or otherwise: *And provided further*, That the benefits of this act shall not inure to any patentee who, when he makes such claim, is in the employment or service of the Government of the United States, or the assignee of any such patentee; nor shall this act apply to any device discovered or invented by such employee during the time of his employment or service.

Revised Statutes, Title XL.

SEC. 4920. In any action for infringement the defendant may plead the general issue, and, having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it has been patented or described in some printed publication prior to his supposed invention or discovery thereof, or more than two years prior to his application for a patent therefor; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of the patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special

matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect. (See note following sec. 4886, *post*, p. 388.)

Act of February 16, 1875.

SEC. 2. That said courts [U. S. courts having jurisdiction of patent cases] when sitting in equity for the trial of patent causes, may impanel a jury of not less than five and not more than twelve persons, subject to such general rules in the premises as may, from time to time, be made by the Supreme Court, and submit to them such questions of fact arising in such cause as such circuit court shall deem expedient.

And the verdict of such jury shall be treated and proceeded upon in the same manner and with the same effect as in the case of issues sent from chancery to a court of law and returned with such findings.

Revised Statutes, Title LX.

SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same or cause the same to be assessed under its direction. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

But in any suit or action brought for the infringement of any patent there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action.

SEC. 4922. Whenever, through inadvertence, accident, or mistake, and without any willful default, or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administra-

tors, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was *bona fide* his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably neglected or delayed to enter a disclaimer. (See secs. 973, 4917.)

SEC. 4923. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

DESIGN PATENTS.

Revised Statutes, Title LX.

SEC. 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had, the same as in cases of invention or discoveries covered by section 4886, obtain a patent therefor.

SEC. 4930. The commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

SEC. 4931. Patents for designs may be granted for the term of three years and six months, or for seven years, or for 14 years, as the applicant may, in his application, elect.

SEC. 4933. All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this title shall apply to patents for designs.

Act of February 4, 1887.

Be it enacted, etc., That hereafter, during the term of letters patent for a design, it shall be unlawful for any person other than the owner of said letters patent, without the license of such owner, to apply the design secured by such letters patent, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or to sell or expose for sale any article of manufacture to which such design or colorable imitation shall, without the license of the owner, have been applied, knowing that the same has been so applied. Any person violating the provisions, or either of them, of this section, shall be liable in the amount of \$250; and in case the total profit made by him from the manufacture or sale, as aforesaid, of the article or articles to which the design, or colorable imitation thereof, has been applied, exceeds the sum of \$250, he shall be further liable for the excess of such profit over and above the sum of \$250; and the full amount of such liability may be recovered by the owner of the letters patent, to his own use, in any circuit court of the United States having jurisdiction of the parties, either by action at law or upon a bill in equity for an injunction to restrain such infringement.

SEC. 2. That nothing in this act contained shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any owner of letters patent for a design, aggrieved by the infringement of the same, might have had if this act had not been passed; but such owner shall not twice recover the profit made from the infringement.

FEES.

Revised Statutes, Title LX.

SEC. 4934. The following shall be the rates for patent fees:

On filing each original application for a patent, except in design cases, \$15.

On issuing each original patent, except in design cases, \$20.

In design cases: For three years and six months, \$10; for seven years, \$15; for 14 years, \$30.

On every application for the reissue of a patent, \$30.

On filing each disclaimer, \$10.

* * * * *

On an appeal for the first time from the primary examiners to the examiners in chief, \$10.

On every appeal from the examiners in chief to the Commissioner, \$20.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of 300 words or under, \$1; of over 300 and under 1,000 words, \$2; and for each additional 1,000 words or fraction thereof, \$1.

For copies of drawings, the reasonable cost of making them.

Appropriation act of March 3, 1891.

And certified copies of such drawings and specifications [drawings of the weekly issue of patents, of designs, trade-marks, and pending applications, and the drawings and specifications of exhausted copies] may be furnished by the Commissioner of Patents to persons applying therefor upon payment of the present rates for uncertified copies, and twenty-five cents additional for each certification.

Act of March 3, 1883.

The Secretary of the Interior and the Commissioner of Patents are authorized to grant any officer of the Government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section 4886 of the Revised Statutes when such invention is used or to be used in the public service, without the payment of any fee: *Provided*, That the applicant in his application shall state that the invention described therein, if patented, may be used by the Government, or any of its officers or employees in prosecution of work for the Government, or by any other person in the United States, without the payment to him of any royalty thereon, which stipulation shall be included in the patent.

Revised Statutes, Title LX.

SEC. 4935. Patent fees may be paid to the Commissioner of Patents, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All moneys received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

SEC. 4936. The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasury, as for fees accruing at the Patent Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

APPROPRIATIONS.

Act of August 23, 1912.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, in full compensation for the service of the fiscal year ending June 30, 1913, for the objects hereinafter expressed, namely:

* * * * * *

PATENT OFFICE: Commissioner of Patents, \$5,000; first assistant commissioner, who shall perform such duties pertaining to the office of commissioner as may be assigned to him by the commissioner, \$4,500; assistant commissioner, who shall perform such duties pertaining to the office of commissioner as may be assigned to him by the commissioner, \$3,500; chief clerk, who shall be qualified to act as principal examiner, \$3,000; 2 law examiners, at \$2,750 each; 3 examiners in chief, at \$3,500 each; examiner of interferences, \$2,700; examiner of trade-marks and designs, \$2,700; 6 assistant examiners of trade-marks and designs, at \$1,500 each; examiner of classification, \$3,600; 43 principal examiners, at \$2,700 each; 63 first assistant examiners, at \$2,400 each; 73 second assistant examiners, at \$2,100 each; 88 third assistant examiners, at \$1,800 each; 110 fourth assistant examiners, at \$1,500 each; financial clerk, who shall give bonds in such amount as the Secretary of the Interior may determine, \$2,250; librarian, \$2,000; 6 chiefs of division, at \$2,000 each; 3 assistant chiefs of division, at \$1,800 each; private secretary, to be selected and appointed by the Commissioners of Patents, \$1,800; translator of languages, \$1,800; clerks—9 of class four, 9 of class three, 17 of class two, 130 of class one, 90 at \$1,000 each; 3 skilled draftsmen, at \$1,200 each; 4 draftsmen, at \$1,000 each; messenger and property clerk, \$1,000; 90 copyists; 50 copyists, at \$720 each; 4 messengers; 25 assistant messengers; 14 laborers, at \$600 each; 45 laborers, at \$480 each; 40 messenger boys, at \$360 each; in all \$1,311,010.

For purchase of professional and scientific books and expense of transporting publications of patents issued by the Patent Office to foreign governments, \$2,500.

For purchase of law and other reference books, \$500.

For producing copies of the weekly issue of patents, designs, and trade-marks; for the reproduction of copies of drawings and specifications of exhausted patents and other papers, \$140,000.

For investigating the question of the public use or sale of inventions for two years or more prior to filing applications for patents,

and such other questions arising in connection with applications for patents as may be deemed necessary by the Commissioner of Patents; and for expense attending defense of suits instituted against the Commissioner of Patents, \$500.

For the share of the United States in the expenses of conducting the International Bureau at Berne, Switzerland, \$750.

TRADE-MARK LAWS OF THE UNITED STATES.

ACT OF FEBRUARY 20, 1905 (AS AMENDED).

An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same.

(As amended by act of Feb. 18, 1909.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided such owner shall be domiciled within the territory of the United States, or resides in or is located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, may obtain registration for such trade-mark by complying with the following requirements: First, by filing in the Patent Office an application therefor, in writing, addressed to the Commissioner of Patents, signed by the applicant, specifying his name, domicile, location, and citizenship; the class of merchandise and the particular description of goods comprised in such class to which the trade-mark is appropriated; a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used; a description of the trade-mark itself shall be included, if desired by the applicant or required by the commissioner, provided such description is of a character to meet the approval of the commissioner. With this statement shall be filed a drawing of the trade-mark, signed by the applicant, or his attorney, and such number of specimens of the trade-mark as actually used as may be required by the Commissioner of Patents. Second, by paying into the Treasury of the United States the sum of ten dollars, and otherwise complying with the requirements of this act and such regulations as may be prescribed by the Commissioner of Patents.

(As amended by act of Feb. 18, 1909.)

SEC. 2. That the application prescribed in the foregoing section, in order to create any right whatever in favor of the party filing it, must be accompanied by a written declaration verified by the appli-

cant, or by a member of the firm or an officer of the corporation or association applying, to the effect that the applicant believes himself or the firm, corporation, or association in whose behalf he makes the application to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of the applicant's knowledge and belief, has the right to use such trade-mark in the United States, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes, and that the descripton and drawing presented truly represent the trade-mark sought to be registered. If the applicant resides or is located in a foreign country, the statement required shall, in addition to the foregoing, set forth that the trade-mark has been registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or the application therefor, as the case may be, except that in the application in such cases it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof. The verification required by this section may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States.

SEC. 3. That every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall before the issuance of the certificate of registration, as hereinafter provided for, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such applicant may claim to be the owner, brought under the provisions of this act or under other laws of the United States, may be served, with the same force and effect as if served upon the applicant or registrant in person. For the purposes of this act it shall be deemed sufficient to serve such notice upon such applicant, registrant, or representative by leaving a copy of such process or notice addressed to him at the last address of which the Commissioner of Patents has been notified.

SEC. 4. That an application for registration of a trade-mark filed in this country by any person who has previously regularly filed in

any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States an application for registration of the same trade-mark shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trade-mark was first filed in such foreign country: *Provided*, That such application is filed in this country within four months from the date on which the application was first filed in such foreign country: *And provided*, That certificate of registration shall not be issued for any mark for registration of which application has been filed by an applicant located in a foreign country until such mark has been actually registered by the applicant in the country in which he is located.

(As amended by act of Jan. 8, 1913.)

SEC. 5. That no mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall be refused registration as a trade-mark on account of the nature of such mark unless such mark—

(a) Consists of or comprises immoral or scandalous matter.

(b) Consists of or comprises the flag or coat of arms or other insignia of the United States or any simulation thereof, or of any State or municipality or of any foreign nation, or of any design or picture that has been or may hereafter be adopted by any fraternal society as its emblem, *or of any name, distinguishing mark, character, emblem, colors, flag, or banner adopted by any institution, organization, club, or society which was incorporated in any State in the United States prior to the date of the adoption and use by the applicant: Provided, That said name, distinguishing mark, character, emblem, colors, flag, or banner was adopted and publicly used by said institution, organization, club, or society prior to the date of adoption and use by the applicant: Provided, That trade-marks which are identical with a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties, or which so nearly resemble a registered or known trade-mark owned and in use by another and appropriated to merchandise of the same descriptive properties as to be likely to cause confusion or mistake in the mind of the public or to deceive purchasers shall not be registered: Provided, That no mark which consists merely in the name of an individual, firm, corporation, or association not written, printed, impressed, or woven in some particular or distinctive manner, or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term, shall be registered under the terms of this act: Provided further, That no por-*

trait of a living individual may be registered as a trade-mark except by the consent of such individual, evidenced by an instrument in writing: *And provided further*, That nothing herein shall prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several States or with Indian tribes which was in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he derived title, for ten years next preceding February twentieth, nineteen hundred and five: *Provided further*, That nothing herein shall prevent the registration of a trade-mark otherwise registrable because of its being the name of the applicant or a portion thereof.

(As amended by act of Mar. 2, 1907.)

SEC. 6. That on the filing of an application for registration of a trade-mark which complies with the requirements of this act, and the payment of the fees herein provided for, the Commissioner of Patents shall cause an examination thereof to be made; and if on such examination it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of this act, the commissioner shall cause the mark to be published at least once in the Official Gazette of the Patent Office. Any person who believes he would be damaged by the registration of a mark may oppose the same by filing notice of opposition, stating the grounds therefor, in the Patent Office within thirty days after the publication of the mark sought to be registered, which said notice of opposition shall be verified by the person filing the same before one of the officers mentioned in section two of this act. An opposition may be filed by a duly authorized attorney, but such opposition shall be null and void unless verified by the opposer within a reasonable time after such filing. If no notice of opposition is filed within said time, the commissioner shall issue a certificate of registration therefor, as hereinafter provided for. If on examination an application is refused, the commissioner shall notify the applicant, giving him his reasons therefor.

SEC. 7. That in all cases where notice of opposition has been filed the Commissioner of Patents shall notify the applicant thereof and the grounds therefor.

Whenever application is made for the registration of a trade-mark which is substantially identical with a trade-mark appropriated to goods of the same descriptive properties, for which a certificate of registration has been previously issued to another, or for registration of which another has previously made application, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another, as, in the opinion, of the commissioner, to be likely to be mistaken therefor by the public, he may declare that an interference

exists as to such trade-mark, and in every case of interference or opposition to registration he shall direct the examiner in charge of interferences to determine the question of the right of registration to such trade-mark, and of the sufficiency of objections to registration, in such manner and upon such notice to those interested as the commissioner may by rules prescribe.

The commissioner may refuse to register the mark against the registration of which objection is filed, or may refuse to register both of two interfering marks, or may register the mark, as a trade-mark, for the person first to adopt and use the mark, if otherwise entitled to register the same, unless an appeal is taken, as hereinafter provided for, from his decision, by a party interested in the proceeding, within such time (not less than twenty days) as the commissioner may prescribe.

SEC. 8. That every applicant for the registration of a trade-mark, or for the renewal of the registration of a trade-mark, which application is refused, or a party to an interference against whom a decision has been rendered, or a party who has filed a notice of opposition as to a trade-mark, may appeal from the decision of the examiner in charge of trade-marks, or the examiner in charge of interferences, as the case may be, to the commissioner in person, having once paid the fee for such appeal.

SEC. 9. That if an applicant for registration of a trade-mark, or a party to an interference as to a trade-mark, or a party who has filed opposition to the registration of a trade-mark, or a party to an application for the cancelation of the registration of a trade-mark, is dissatisfied with the decision of the Commissioner of Patents, he may appeal to the court of appeals of the District of Columbia, on complying with the conditions required in case of an appeal from the decision of the commissioner by an applicant for patent, or a party to an interference as to an invention, and the same rules of practice and procedure shall govern in every stage of such proceedings, as far as the same may be applicable.

SEC. 10. That every registered trade-mark, and every mark for the registration of which application has been made, together with the application for registration of the same, shall be assignable in connection with the good will of the business in which the mark is used. Such assignment must be by an instrument in writing and duly acknowledged according to the laws of the country or State in which the same is executed; any such assignment shall be void as against any subsequent purchaser for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from date thereof. The commissioner shall keep a record of such assignments.

SEC. 11. That certificates of registration of trade-marks shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that purpose. The certificate shall state the date on which the application for registration was received in the Patent Office. Certificates of registration of trade-marks may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office.

Written or printed copies of any records, books, papers, or drawings relating to trade-marks belonging to the Patent Office, and of certificates of registration, authenticated by the seal of the Patent Office and certified by the commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor and paying the fee required by law shall have certified copies thereof.

SEC. 12. That a certificate of registration shall remain in force for twenty years, except that in the case of trade-marks previously registered in a foreign country such certificates shall cease to be in force on the day on which the trade-mark ceases to be protected in such foreign country, and shall in no case remain in force more than twenty years, unless renewed. Certificates of registration may be from time to time renewed for like periods on payment of the renewal fees required by this act, upon request by the registrant, his legal representatives, or transferees of record in the Patent Office, and such request may be made at any time not more than six months prior to the expiration of the period for which the certificates of registration were issued or renewed. Certificates of registration in force at the date at which this act takes effect shall remain in force for the period for which they were issued, but shall be renewable on the same conditions and for the same periods as certificates issued under the provisions of this act, and when so renewed shall have the same force and effect as certificates issued under this act.

SEC. 13. That whenever any person shall deem himself injured by the registration of a trade-mark in the Patent Office he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or that the mark is not used by the registrant, or has been abandoned, and the examiner shall so decide, the commissioner shall cancel the registration. Appeal may be taken

to the commissioner in person from the decision of examiner of interferences.

SEC. 14. That the following shall be the rates for trade-mark fees:

On filing each original application for registration of a trade-mark, ten dollars: *Provided*, That an application for registration of a trade-mark pending at the date of the passage of this act, and on which certificate of registration shall not have issued at such date, may, at the option of the applicant, be proceeded with and registered under the provisions of this act without the payment of further fee.

On filing each application for renewal of the registration of a trade-mark, ten dollars.

On filing notice of opposition to the registration of a trade-mark, ten dollars.

On an appeal from the examiner in charge of trade-marks to the Commissioner of Patents, fifteen dollars.

On an appeal from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents, fifteen dollars.

For certified and uncertified copies of certificates of registration and other papers, and for recording transfers and other papers, the same fees as required by law for such copies of patents and for recording assignments and other papers relating to patents.

SEC. 15. That sections forty-nine hundred and thirty-five and forty-nine hundred and thirty-six of the Revised Statutes, relating to the payment of patent fees and to the repayment of fees paid by mistake, are hereby made applicable to trade-mark fees.

SEC. 16. That the registration of a trade-mark under the provisions of this act shall be *prima facie* evidence of ownership. Any person who shall, without the consent of the owner thereof, reproduce, counterfeit, copy, or colorably imitate any such trade-mark and affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages, according to the circumstances of

the case, not exceeding three times the amount of such verdict, together with the costs.

SEC. 17. That the circuit and territorial courts of the United States and the supreme court of the District of Columbia shall have original jurisdiction, and the circuit courts of appeal of the United States and the court of appeals of the District of Columbia shall have appellate jurisdiction of all suits at law or in equity respecting trade-marks registered in accordance with the provisions of this act, arising under the present act, without regard to the amount in controversy.

SEC. 18. That writs of certiorari may be granted by the Supreme Court of the United States for the review of cases arising under this act in the same manner as provided for patent cases by the act creating the circuit court of appeals.

SEC. 19. That the several courts vested with jurisdiction of cases arising under the present act shall have power to grant injunctions, according to the course and principles of equity, to prevent the violation of any right of the owner of a trade-mark registered under this act, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for wrongful use of a trade-mark the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction. The court shall have the same power to increase such damages, in its discretion, as is given by section sixteen of this act for increasing damages found by verdict in actions of law; and in assessing profits the plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost which are claimed.

SEC. 20. That in any case involving the right to a trade-mark registered in accordance with the provisions of this act, in which the verdict has been found for the plaintiff, or an injunction issued, the court may order that all labels, signs, prints, packages, wrappers, or receptacles in the possession of the defendant, bearing the trade-mark of the plaintiff or complainant, or any reproduction, counterfeit, copy, or colorable imitation thereof, shall be delivered up and destroyed. Any injunction that may be granted upon hearing, after notice to the defendant, to prevent the violation of any right of the owner of a trade-mark registered in accordance with the provisions of this act, by any circuit court of the United States, or by a judge thereof, may be served on the parties against whom such injunction may be granted anywhere in the United States where they may be found, and shall be operative, and may be enforced by proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other circuit court, or judge thereof, in the United States, or by the supreme court of the Dis-

trict of Columbia, or a judge thereof. The said courts, or judges thereof, shall have jurisdiction to enforce said injunction, as herein provided, as fully as if the injunction had been granted by the circuit court in which it is sought to be enforced. The clerk of the court or judge granting the injunction shall, when required to do so by the court before which application to enforce said injunction is made, transfer without delay to said court a certified copy of all the papers on which the said injunction was granted that are on file in his office.

SEC. 21. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in unlawful business, or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or has been abandoned, or upon any certificate of registration fraudulently obtained.

SEC. 22. That whenever there are interfering registered trade-marks, any person interested in any one of them may have relief against the interfering registrant, and all persons interested under him, by suit in equity against the said registrant; and the court, on notice to adverse parties and other due proceedings had according to the course of equity, may adjudge and declare either of the registrations void in whole or in part according to the interest of the parties in the trade-mark, and may order the certificate of registration to be delivered up to the Commissioner of Patents for cancellation.

SEC. 23. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

SEC. 24. That all applications for registration pending in the office of the Commissioner of Patents at the time of the passage of this act may be amended with a view to bringing them, and the certificate issued upon such applications, under its provisions, and the prosecution of such applications may be proceeded with under the provisions of this act.

SEC. 25. That any person who shall procure registration of a trade-mark, or entry thereof, in the office of the Commissioner of Patents by a false or fraudulent declaration or representation, oral or in writing, or by any false means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered by an action on the case.

SEC. 26. That the Commissioner of Patents is authorized to make rules and regulations, not inconsistent with law, for the conduct of proceedings in reference to the registration of trade-marks provided for by this act.

SEC. 27. That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this act or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any customhouse of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs.

SEC. 28. That it shall be the duty of the registrant to give notice to the public that a trade-mark is registered, either by affixing thereon the words "Registered in U. S. Patent Office," or abbreviated thus, "Reg. U. S. Pat. Off.," or when, from the character or size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this can not be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are inclosed; and in any suit for infringement by a party failing so to give notice of registration no damages shall be recovered, except on proof that the defendant was duly notified of infringement and continued the same after such notice.

SEC. 29. That in construing this act the following rules must be observed, except where the contrary intent is plainly apparent from the context thereof: The United States includes and embraces all territory which is under the jurisdiction and control of the United States. The word "States" includes and embraces the District of

Columbia, the Territories of the United States, and such other territory as shall be under the jurisdiction and control of the United States. The terms "person" and "owner," and any other word or term used to designate the applicant or other entitled to a benefit or privilege or rendered liable under the provisions of this act, include a firm, corporation, or association as well as a natural person. The term "applicant" and "registrant" embrace the successors and assigns of such applicant or registrant. The term "trade-mark" includes any mark which is entitled to registration under the terms of this act, and whether registered or not, and a trade-mark shall be deemed to be "affixed" to an article when it is placed in any manner in or upon either the article itself or the receptacle or package or upon the envelope or other thing in, by, or with which the goods are packed or inclosed or otherwise prepared for sale or distribution.

SEC. 30. That this act shall be in force and take effect April first, nineteen hundred and five. All acts and parts of acts inconsistent with this act are hereby repealed except so far as the same may apply to certificates of registration issued under the act of Congress approved March third, eighteen hundred and eighty-one, entitled "An act to authorize the registration of trade-marks and protect the same," or under the act approved August fifth, eighteen hundred and eighty-two, entitled "An act relating to the registration of trade-marks."

Approved, February 20, 1905.

ACT OF MAY 4, 1906.

An Act To amend the laws of the United States relating to the registration of trade-marks.

* * * * *

SEC. 2. That the Commissioner of Patents shall establish classes of merchandise for the purpose of trade-mark registration, and shall determine the particular descriptions of goods comprised in each class. On a single application for registration of a trade-mark the trade-mark may be registered at the option of the applicant for any or all goods upon which the mark has actually been used comprised in a single class of merchandise, provided the particular descriptions of goods be stated.

SEC. 3. That any owner of a trade-mark who shall have a manufacturing establishment within the territory of the United States shall be accorded, so far as the registration and protection of trade-marks used on the products of such establishment are concerned, the same rights and privileges that are accorded to owners of trade-marks domiciled within the territory of the United States by the

act entitled "An act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February twentieth, nineteen hundred and five.

SEC. 4. That this act shall take effect July first, nineteen hundred and six.

Approved, May 4, 1906.

ACT TO INCORPORATE THE AMERICAN NATIONAL RED CROSS, APPROVED
JANUARY 5, 1905 (AS AMENDED JUNE 23, 1910).

SEC. 4. That from and after the passage of this act it shall be unlawful for any person within the jurisdiction of the United States to falsely or fraudulently hold himself out as or represent or pretend himself to be a member of or an agent for the American National Red Cross for the purpose of soliciting, collecting, or receiving money or material; or for any person to wear or display the sign of the Red Cross or any insignia colored in imitation thereof for the fraudulent purpose of inducing the belief that he is a member of or an agent for the American National Red Cross. It shall be unlawful for any person, corporation, or association other than the American National Red Cross and its duly authorized employees and agents and the Army and Navy sanitary and hospital authorities of the United States, for the purpose of trade or as an advertisement, to induce the sale of any article whatsoever or for any business or charitable purpose to use within the territory of the United States of America and its exterior possessions the emblem of the Greek Red Cross on a white ground, or any sign or insignia made or colored in imitation thereof, or of the words "Red Cross" or "Geneva Cross" or any combination of these words: *Provided, however,* That no person, corporation, or association that actually used or whose assignor actually used the said emblem, sign, insignia, or words for any lawful purpose prior to January fifth, nineteen hundred and five, shall be deemed forbidden by this act to continue the use thereof for the same purpose and for the same class of goods. If any person violates the provision of this section he shall be deemed guilty of a misdemeanor, and upon conviction in any Federal court shall be liable to a fine of not less than one or more than five hundred dollars, or imprisonment for a term not exceeding one year, or both, for each and every offense.

* * * * *

SEC. 8. That the endowment fund of the American National Red Cross shall be kept and invested under the management and control of a board of nine trustees, who shall be elected from time to time by the incorporators and their successors under such regulations re-

garding terms and tenure of office, accountability, and expense as said incorporators and successors shall prescribe.

Approved, June 23, 1910.

UNITED STATES OF AMERICA—WAR LEGISLATION.

PATENTS—RULES—WITHDRAWAL FROM ISSUE.

207 O. G., 612.

[Order No. 2158.]

DEPARTMENT OF THE INTERIOR,

UNITED STATES PATENT OFFICE,

Washington, D. C., October 9, 1914.

Acting under the provisions of section 483 of the Revised Statutes and with the approval of the Secretary of the Interior, rule 165 of the Rules of Practice of the United States Patent Office is amended by adding the following:

In view of the conditions arising from the European war, the provision that an application will not be withdrawn from issue after the case has received its date and number "for the purpose of enabling the inventor to procure a foreign patent" will not be insisted upon and upon a proper showing such an application may be withdrawn from issue until the foreign applications can be filed.

This amendment of the rule will be in force for one year from the date of its approval by the Secretary of the Interior.

So that the rule as amended will read as follows:

165. After notice of the allowance of an application is given, the case will not be withdrawn from issue except by approval of the commissioner, and if withdrawn for further action on the part of the office a new notice of allowance will be given. When the final fee has been paid upon an application for letters patent, and the case has received its date and number, it will not be withdrawn or suspended from issue on account of any mistake or change of purpose of the applicant or his attorney, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reasons except mistake on the part of the office, or because of fraud, or illegality in the application, or for interference. (See Rule 78.)

In view of the conditions arising from the European war, the provision that an application will not be withdrawn from issue after the case has received its date and number "for the purpose of enabling the inventor to procure a foreign patent" will not be insisted upon and upon a proper showing such an application may be withdrawn from issue until the foreign applications can be filed.

This amendment of the rule will be in force for one year from the date of its approval by the Secretary of the Interior.

This amendment will be in force for one year from October 8, 1914.

(Signed)

THOMAS EWING,

Commissioner.

PATENTS—TRADE-MARKS—PRINTS—LABELS—APPLICATIONS—FEES—
 RECIPROCAL EXTENSION OF TERMS—ACT OF JULY 17, 1916.

An act to extend temporarily the time for filing applications and fees and taking action in the United States Patent Office in favor of nations granting reciprocal rights to United States citizens.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any applicant for letters patent or for the registration of any trade-mark, print, or label, being within the provisions of this act, if unable on account of the existing and continuing state of war to file any application or pay any official fee or take any required action within the period now limited by law, shall be granted an extension of nine months beyond the expiration of said period.

SEC. 2. That the provisions of this act shall be limited to citizens or subjects of countries which extend substantially similar privileges to the citizens of the United States, and no extension shall be granted under this act to the citizens or subjects of any country while said country is at war with the United States.

SEC. 3. That this act shall be operative to relieve from default under existing law occurring since August 1, 1914, and before the 1st day of January, 1918, and all applications and letters patent and registrations in the filing or prosecution whereof default has occurred for which this act grants relief shall have the same force and effect as if said default had not occurred.

Approved August 17, 1916.

UNITED STATES PRACTICE.

PATENTS—APPLICATIONS—RECIPROCAL EXTENSION OF TIME UNDER ACT OF AUGUST 17, 1916—BELGIUM, SWEDEN, DENMARK, GREAT BRITAIN, GERMANY, FRANCE, SWITZERLAND, SPAIN, AND HUNGARY—COMMISSIONER'S DECISIONS.

[233 O. G., 351—Commissioner's decisions.]

EX PARTE DURANT.

[Decided October 16, 1916.]

PAYMENT OF FINAL FEE.

Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held that the Belgian Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

On petition. Wind instrument.
Mr. Henri Van Oldenneel and Mr. W. H. Berrigan for the applicant.

EWING, *Commissioner*:

This is a petition that a final fee paid September 20, 1916, six months and five days after the expiration of the six months from the notice of allowance, be accepted under the provisions of the act of August 17, 1916.

Applicant is a subject of the King of Belgium. The Belgian Government has issued certain decrees which are published in volume 206 of the Official Gazette (p. 1439); volume 209, Official Gazette (p. 318); volume 210, Official Gazette (p. 718).

The extensions indicated therein are believed to conform fully with the requirements of the statute that reciprocal privileges be granted to citizens of this country.

The showing made is held to establish that the failure to pay the final fee within the six months period was due to the existing and continuing state of war, and it is directed that it be accepted.

EX PARTE ENBERG.

[Decided October 16, 1916.]

PAYMENT OF FINAL FEE.

Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held that the Swedish Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

On petition.

Calculating machine, cash register, and the like.

Mr. Henri Van Oldenneel for the applicant.

EWING, *Commissioner*:

This is a petition that the final fee, which was paid September 20, 1916, two months and twelve days after the expiration of the six months from the date of the notice of allowance, be accepted under the provisions of the act of August 17, 1916.

Applicant is a subject of the King of Sweden. The Swedish Government has issued certain ordinances which are published in the Official Gazette (vol. 219, p. 273; vol. 220, p. 1046). (The limit set in the last order was subsequently extended.)

The extensions indicated therein are believed to conform fully with the requirements of the act of August 17, 1916, that reciprocal privileges be granted to citizens of this country.

The showing made is held to establish that the failure to pay the fee within the six months was due to the existing and continuing state of war, and it is directed that it be accepted.

EX PARTE FISHER.

[Decided November 17, 1916.]

FILING DATE.

Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held that the Danish law grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

EWING, *Commissioner*:

Applicant is a subject of the King of Denmark. The Danish law and the orders issued under the authority thereof (see 208 O. G., 986; 210 O. G., 719, and *La Propriété Industrielle*, 1916, 65) grant to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

As the application was mailed when the war had not been in progress more than three months and the delay in the mails not so great as at present, it could reasonably have been expected that it would be received by the office within the period fixed by section 4887 of the Revised Statutes. The failure to file the application within that period is therefore held to have been due to the "existing and continuing state of war."

The patent granted on applicant's Danish application will therefore not bar the grant of a patent in this country.

EX PARTE FOLEY AND BAKER.

[Decided October 16, 1916.]

1. Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held that the British Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

2. Same—Delay due to war.

Where the failure to receive and file the application within a year of the date of the British application was shown to be due to failure in the mails, and possibly to the sinking of a mail steamer, *Held* that the delay would be regarded as due to the war.

On petition.

Detachable or interchangeable wheel for motor vehicles and the like.

Mr. Berthold Singer for the applicants.

EWING, *Commissioner*.

This application was filed more than 12 months after the filing of the British application on January 28, 1915. Applicants request that they be given the benefit of the act of August 17, 1916, extending the time for filing applications and fees.

Applicants are subjects of the King of Great Britain.

Under the provisions of section 1 of the patents, designs, and trade-marks (temporary rules) act of 1914 the British Board of Trade issued certain rules which are published in Volume 209 of the Official Gazette (p. 1054).

The extensions indicated therein are believed to conform fully with the requirements of the statutes that reciprocal privileges be granted to citizens of this country.

Concerning the question of the failure to file within 12 months of the filing of the British application the British attorney in an affidavit accompanying the present application states that the necessary application papers were prepared and dispatched on August 17, 1915, to the present attorney; that a letter was written to him on the same date calling attention to the importance of filing the application as early as possible; and that no response was ever received to this communication. He also states that he is aware that on August 19, 1915, the *Arabic*, which carried American mails, was sunk off the Irish coast.

An affidavit has also been filed of the file clerk of the present attorney, who states that the records of his office do not show the receipt of the letter above referred to.

The statements above made are deemed sufficient to establish that the failure to file the application within the period fixed by section 4887, was due to the existing and continuing state of war, and as the application was filed within nine months from the expiration of that period the British patent will not bar the grant of a patent in this country.

EX PARTE JUNG.

[Decided October 16, 1916.]

PAYMENT OF FINAL FEE.

1. Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held, That the German Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

2. Same—Delay due to war.

Where it appears that a letter was sent to the German attorney three months before the time for paying the final fee expired, but was lost in the mails, and that the instructions to pay the fee were mailed more than a month before the time expired: *Held*, That the delay would be regarded as due to the war.

On petition. Shaping machine.

Mr. B. Singer, for the applicant.

EWING, *Commissioner*:

This is a petition that the final fee, which was paid September 26, 1916, eight days after the expiration of the six months from the date of the notice of allowance, be accepted under the provisions of the act of August 17, 1916.

Applicant is a subject of the Emperor of Germany. The German Government has issued certain orders, which are published in the Official Gazette (vol. 208, p. 239; vol. 209, p. 1318; vol. 215, p. 979). (The limit set in the last order was subsequently indefinitely extended.)

The extensions indicated therein are believed to conform fully with the requirement of the statute that reciprocal privileges be granted to citizens of this country.

It appears from the affidavit filed in support of the petition that the attorney of record wrote to applicant's German attorney on March 20, 1916, notifying him that the application had been allowed; that he wrote again on June 17, 1916, calling attention to the fact that the final fee was due September 18, 1916, and that on September 25, 1916, he received a letter from the German attorney, dated August 12, 1916, stating that no communication had been received since the letter of March 20, 1916, and directing the payment of the final fee.

In view of the nonreceipt of the attorney's letter of June 17, 1916, and the fact that the directions to pay the final fee were mailed more than a month prior to the expiration of the six months period, it is held that the failure to pay the final fee within that period was due to the existing and continuing state of war, and it is directed that it be accepted.

EX PARTE RAVIER.

[Decided October 16, 1916.]

APPLICANT'S SIGNATURE.

1. Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held, That the French Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

2. Same—Delay Due to War.

Where it appeared that the applicant was in the French Navy and that his signature to the United States application could not be obtained until very shortly before expiration of the year following the French filing date, *Held* that the delay would be regarded as due to the war.

On petition.

Works such as retaining walls, piers, and wharfs.

Mr. John Imirie for the applicant.

EWING, *Commissioner*:

Applicant is a citizen of France. The French Government has passed a law (*La Propriété Industrielle*, 1915, p. 66) which reads in part as follows:

ART. 5. The provisions of the decree of August 14, 1914, suspending the time limits in the matter of patents and of designs and models from and after August 1, shall be enjoyed by subjects and citizens of foreign countries only in so far as such countries have accorded or may hereafter accord, by way of reciprocity, equivalent privileges to the citizens of France and of the French protectorates.

ART. 7. The terms of priority established by Article 4, as amended, of the Convention of the International Union of 1883, are hereby suspended from and after August 1, 1914, during the continuation of hostilities and until dates to be fixed by a future decree.

The enjoyment of this suspension shall be claimed only by subjects of the Union whose country has accorded or may hereafter accord the same privilege to the citizens of France and of the French protectorates.

The extensions indicated therein are believed to conform fully with the requirements of the act of August 17, 1916, that reciprocal privileges be granted to citizens of this country.

It appears from the affidavit and correspondence filed in support of this petition that the applicant was in the French Navy and that his French agent was unable to obtain his signature to the United States application until shortly before the expiration of the year following the filing of the French application on February 20, 1915, and that the application was mailed in Paris February 10, 1916, being received by the attorney February 23, 1916.

This showing is held to establish that the failure to file the application within the year from the filing of the French application was due to the existing and continuing state of war.

Applicant's French patent is therefore not a bar to the grant of a patent on the present application. It is directed that the amendment filed September 21, 1916, be entered and considered.

EX PARTE SCHLUMPF.

[Decided October 16, 1916.]

PAYMENT OF FINAL FEE.

Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

Held, That the Swiss Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

On petition.

Device for pressing-rollers, particularly for lacing-eyelets.

Messrs. Munn & Co. for the applicant.

EWING, *Commissioner*:

This is a petition that the final fee, which was paid September 18, 1916, three months after the expiration of the six months from the date of the notice of allowance, be accepted under the provisions of the act of August 17, 1916.

Applicant is a citizen of Switzerland. The Swiss Government has issued certain orders, which are published in the Official Gazette (vol. 207, p. 937; vol. 211, p. 288; and vol. 216, p. 1321). (The limit set in the last order was subsequently extended.)

The extensions indicated therein are believed to conform fully with the requirements of the act of August 17, 1916, that reciprocal privileges be granted to citizens of this country.

The showing made is held to establish that the failure to pay the fee within the six months was due to the existing and continuing state of war, and it is directed that it be accepted.

EX PARTE VICTORERO.

[Decided October 16, 1916.]

FILING DATE.

EXTENSION OF TIME UNDER ACT OF AUGUST 17, 1916—RECIPROCAL PRIVILEGES.

Held, That the Spanish Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

On petition.

Machine for the elaboration of cigarettes.

Mr. B. Singer for the applicant.

EWING, *Commissioner*:

Applicant is a subject of the King of Spain. The Spanish Government has issued decrees which read in part as follows (208 O. G., 986; *La Propriété Industrielle*, 1916, p. 30):

1. So long as the present state of war may continue, and from and after the 26th of July last, any declaration to the effect that a proceeding will not be pursued or that a registration effected has lapsed, in the matter of industrial property, shall be held in suspense in the case of an individual or corporate body domiciled abroad.

2. Immediately upon cessation of hostilities, a suitable term shall be fixed within which the individuals and corporate bodies referred to in the preceding paragraph shall show that they were prevented by circumstances over which they had no control from complying with the legal formalities within the terms fixed by the laws in force, and upon furnishing proof considered sufficient by the patent office authorities they shall be protected from all injury.

ARTICLE 1. The priority term allowed for patents, in so far as it concerns cases wherein the term referred to had not elapsed on July 31, 1914, shall be extended until a date to be fixed at the conclusion of the war.

ART. 2. Such privilege is granted upon the basis of reciprocity to those countries that shall decide to grant a like benefit to Spain.

The extension indicated therein are believed to conform fully with the requirements of the act of August 17, 1916, that reciprocal privileges be granted to citizens of this country.

The showing made is held to establish that the failure to file the application in this country within 12 months from the filing of the Spanish application was due to the existing and continuing state of war.

Applicant's Spanish patent will therefore not bar the grant of a patent in this country.

EX PARTE HECHT.

[Decided October 16, 1916.]

PAYMENT OF FINAL FEE.

Extension of time under act of August 17, 1916—Reciprocal privileges.

Held that the Hungarian Government grants to citizens of the United States substantially "similar privileges" within the meaning of the act of August 17, 1916.

On petition.

Container for loose sheets.

Mr. Henri Van Oldenneel for the applicant.

EWING, *Commissioner*:

This is a petition that the final fee, which was paid September 16, 1916, two months and twenty-five days after the expiration of the

six months from the date of the notice of allowance, be accepted under the provisions of the act of August 17, 1916.

Applicant is a subject of the King of Hungary. The Hungarian Government has issued certain orders, which read, in part, as follows (*La Propriété Industrielle*, 1916, p. 4):

No. 81250-1915 of December 1, 1915.

By virtue of the powers provided in section 16 of Article LXIII of the law of 1912, which article relates to the exceptional measures to be adopted in case of war, I hereby order, in the meaning of ordinance No. 6981-1914 M. E., enacted in plenary session of the royal Hungarian ministry, as follows:

SECTION 1. The terms of priority fixed with regard to filing in the matter of patents, designs, and trade-marks by Article 4 of the Convention of the Union of Paris of March 20, 1883, revised at Brussels December 14, 1900, and at Washington June 2, 1911, are hereby extended for three months in so far as they had not expired prior to July 26, 1914. A future ordinance will fix the date from which such extension of three months shall run.

This provision shall be applicable in favor of subjects of other countries belonging to the International Union for the Protection of Industrial Property only if such countries grant an extension of the terms of priority to Hungarian subjects. If, however, any such country shall grant this privilege to Hungarian subjects to a lesser extent than provided for in the first paragraph, the same restriction shall be applicable to the citizens of such country.

A notice to be published in the official organ shall specify to what extent the terms of priority will be extended in Hungary in favor of subjects of other countries in the meaning of the provisions contained in the second paragraph.

No. 87639 of December 23, 1915.

By virtue of the power conferred by section 16 of Article LXIII of the law of 1912, concerning the exceptional measures to be adopted in case of war and in conformity with the ordinance of the royal Hungarian ministry No. 6981-1914 M. E., I hereby order as follows:

SECTION 1. The provision of my ordinance of August 19, 1915, No. 54400, under the terms of which the duration of the terms for the payment of annual taxes on patents and of additional taxes was suspended until December 31, 1915, is hereby modified by extending the duration of such suspension to June 30, 1916.

In other respects my order cited above shall remain in force without any modification.

SEC. 2. This ordinance shall go into force from the date of its publication (published Dec. 25, 1915).

(The limit set in the last order was subsequently extended.)

The extensions indicated therein are believed to conform fully with the requirements of the act of August 17, 1916, that reciprocal privileges be granted to citizens of this country.

The showing made is held to establish that the failure to pay the fee within the six months was due to the existing and continuing state of war, and it is directed that it be accepted.

INDUSTRIAL PROPERTY — APPLICATIONS — FEES — RECIPROCAL EXTENSION OF TIME UNDER ACT OF AUGUST 17, 1916, TO ITALY — NOTE OF MARCH 24, 1917, AND COMMISSIONER'S DECISION OF OCTOBER 16, 1916.

[Translation.]

THE DEPARTMENT OF STATE TO THE AMBASSADOR OF ITALY AT WASHINGTON.

MARCH 24, 1917.

We reply to your note of February 19 last, along with which you send us a copy of the decree of the Lieutenant General of the Kingdom of Italy prolonging the terms for the payment of fees in industrial property matters, at the same time asking us to advise you whether the Government of the United States has promulgated analogous dispositions, and whether they are applicable to Italian subjects, this to the end that the Royal Italian Government may proceed to the promulgation of a decree acknowledging that reciprocal advantages are granted to subjects of the two countries. I have the honor to send you herewith for your information a copy of the letter addressed to the undersigned department by the Commissioner of Patents and explaining the point of view adopted by the Patent Office of the United States on this question.

In this decision, rendered in the case of Feroci, the Commissioner assumes that the law of August 17, 1916, puts subjects of the United States in the position as provided for by the provisions of the above mentioned decree. We are sending with the present for the information of your Government a copy of the law of August 17, 1916, and a copy of the decision rendered by the Commissioner of Patents in the Feroci case.

(From 33 *La Propriété Industrielle*, 106.)

EX PARTE FEROCI.

[Decided October 16, 1916.]

1. Extension of Time Under Act of August 17, 1916—Reciprocal Privileges.

The decree of the Italian Government published in *La Propriété Industrielle* (1915, p. 113), Held to grant "substantially similar privileges" to citizens of this country within the meaning of the act of August 17, 1916, extending the time for payment of fees, etc., where the delay is due to the state of war.

2. Same—Same—Act Liberally Construed.

The act of August 17, 1916, is remedial and should be liberally construed to cover cases where the foreign Government grants to citizens of this country relief from forfeiture under its laws without specific reference to the form in which relief is granted.

On petition.

Automatic railway-car and compressed-air and steam-pipe coupling device.

Mr. Wm. Wallace White for the applicant.

EWING, *Commissioner*:

This is a petition that the rejection upon applicant's Italian patent, the application for which was filed in Italy on April 30, 1914, be withdrawn.

Applicant is a subject of the King of Italy. Two questions arise on the petition under the provisions of the act of August 17, 1916, namely, first, whether the Kingdom of Italy has granted "substantially similar privileges" to citizens of the United States, and second, whether the failure to file the application in this country within 12 months of the filing of the application abroad was due to the existing and continuing state of war. The Italian Government has issued a decree (*La Propriété Industrielle*, 1915, p. 113) a portion of which is as follows:

ARTICLE 1. Persons in active military service, employees of the army and navy, and persons who for reasons of service are in the train of the army and navy, are authorized to defer the payment of fees upon applications for patents and for industrial designs and models, and upon the registration of trademarks to the sixtieth day after the date of the proclamation of peace. Applications presented by said persons, when not accompanied by the acknowledgment of receipt of the fee, shall be held in suspense until the above-mentioned term shall have expired.

ART. 2. The persons referred to in the foregoing article are authorized to defer the payment of taxes and the performance of the acts prescribed by law for keeping patents in force and for applying for an extension of the same, to the last day of the three-month term following the one during which peace will be proclaimed, provided the time limits for such acts or payments had not

expired at the time of the declaration of war. The same advantages shall be enjoyed by citizens holding "certificates of privileges" who may be prevented by circumstances due to the state of war from effecting the payments and performing the necessary acts within the time limits prescribed by law in order to keep in force or extend their privileges.

ART. 3. The provisions of the foregoing article shall be applicable likewise to foreign holders of patents who are subjects of countries which guarantee like advantages to Italian holders of patents. The existence of reciprocity of treatment shall be recognized by decree of the Minister of Agriculture, Industry, and Commerce.

The act of August 17, 1916, is remedial and should be liberally construed. It is believed to be sufficient compliance with its requirement as to reciprocal rights or privileges if the Government of which the petitioner is a citizen grants to citizens of this country relief from forfeiture arising under its own laws without specific reference to the form in which relief is granted. The extensions indicated in the foregoing quotation are believed to conform fully to the requirement of the statute as to reciprocity.

In explanation of the failure to file within 12 months of the filing of the Italian application the affidavit in support of the petition states that the application papers were received by the attorney in New York on April 15, 1915, accompanied by directions not to file the papers until he received instructions by cable to do so; that no instructions were received, but that on May 28, 1915, he received a letter from applicant's Italian attorneys stating that on April 23, 1915, they had sent him a message by cable directing him to file the application. It is a fair assumption that the failure of the attorney to receive the cable message was due to the existing and continuing state of war, since no other reason is apparent why it was not received.

The petition is granted.

(From 231 *Official Gazette*, 1539.)

PATENTS.

EX PARTE HABENICHT AND BECKE.

[Decided March 15, 1917.]

1. Extension of Time, of Act August 17, 1916—Reciprocal Privileges—Time of Filing.

It is assumed that in view of the act of August 17, 1916, extending the time for filing an application where the failure to file it within 12 months was due to the state of war, a similar extension will be granted by the German Government to citizens of this country under the proclamation of May 7, 1915. (215 O. G., 979.)

2. Same—Same—Same—Delay Due to War.

The showing made *Held* sufficient to establish that the failure to file the application in this country within 12 months of the filing of the application in Germany was due to the existing and continuous state of war and *Held* that the grant of the German patent will not, therefore, bar the grant of a patent in this country.

On petition.

Carbureter for exploding motors.

Mr. B. Singer for the applicants.

EWING, *Commissioner*:

This is a petition that applicants be accorded an extension under the provisions of the act of August 17, 1916. This application was filed February 28, 1917. It appears from the oath that the corresponding German application was filed January 27, 1916. This office has not been advised that the German Government is granting to citizens of this country similar extensions. The German ordinance of May 7, 1915 (215 O. G., 979), providing for an extension of the periods of priority, states that the provisions of the ordinance shall apply "in favor of subjects of foreign countries when and to the same extent as the priority time limits are prolonged in such countries in favor of German subjects, as shall be certified by proclamation published in the *Reichsgesetzblatt*."

It is assumed that in view of the act of August 17, 1916, extending the time for filing an application where the failure to file it within 12 months was due to the "existing and continuing state of war," a similar extension will be granted by the German Government to citizens of this country.

The showing made is deemed sufficient to establish that the applicants were unable, on account of the "existing and continuing state of war," to file their application within the 12 months. The grant of the German patent will therefore not bar the grant of a patent in this country.

The petition is granted.

(From 236 *Official Gazette*, 1219.)

PATENTS—FEES AND TAXES IN GERMANY—PAYMENTS PERMITTED—
PROCLAMATION OF MAY 24, 1917.

[By the President of the United States of America, a proclamation.]

Whereas the laws of the German Empire provide that letters patent granted or issued to citizens of other countries shall lapse unless certain taxes, annuities, or other fees are paid within stated periods; and

Whereas the interests of the citizens of the United States in such letters patent are of great value, so that it is important that such payments should be made in order to preserve their rights;

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers vested in me as such, hereby declare and proclaim that citizens of the United States owning letters patent granted or issued by the German Empire are hereby authorized and permitted to make payment of any tax, annuity, or fee which may be required by the laws of the German Empire for the preservation of their rights in such letters patent.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this 24th day of May, in the year of our Lord nineteen hundred and seventeen and of the independence of the United States, one hundred and forty-first.

[SEAL.] (Signed) WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

INDUSTRIAL PROPERTY—TRADING WITH THE ENEMY ACT OF OCTOBER 6, 1917.

[PUBLIC—No. 91—65TH CONGRESS.]

[II. R. 4960.]

An act to define, regulate, and punish trading with the enemy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act shall be known as the "trading with-the-enemy act."

SEC. 2. That the word "enemy," as used herein, shall be deemed to mean, for the purposes of such trading and of this act—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of any nation with which the United States is at war or incorporated within any country other than the United States and doing business within such territory.

(b) The Government of any nation with which the United States is at war, or any political or municipal subdivision thereof, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "enemy."

The words "ally of enemy," as used herein, shall be deemed to mean—

(a) Any individual, partnership, or other body of individuals, of any nationality, resident within the territory (including that occupied by the military and naval forces) of any nation which is an ally of a nation with which the United States is at war, or resident outside the United States and doing business within such territory, and any corporation incorporated within such territory of such ally nation, or incorporated within any country other than the United States and doing business within such territory.

(b) The Government of any nation which is an ally of a nation with which the United States is at war, or any political or municipal subdivision of such ally nation, or any officer, official, agent, or agency thereof.

(c) Such other individuals, or body or class of individuals, as may be natives, citizens, or subjects of any nation which is an ally of a nation with which the United States is at war, other than citizens of the United States, wherever resident or wherever doing business, as the President, if he shall find the safety of the United States or the successful prosecution of the war shall so require, may, by proclamation, include within the term "ally of enemy."

The word "person," as used herein, shall be deemed to mean an individual, partnership, association, company, or other unincorporated body of individuals, or corporation or body politic.

The words "United States," as used herein, shall be deemed to mean all land and water, continental or insular, in any way within the jurisdiction of the United States or occupied by the military or naval forces thereof.

The words "the beginning of the war," as used herein, shall be deemed to mean midnight ending the day on which Congress has declared or shall declare war or the existence of a state of war.

The words "end of the war," as used herein, shall be deemed to mean the date of proclamation of exchange of ratifications of the treaty of peace, unless the President shall, by proclamation, declare a prior date, in which case the date so proclaimed shall be deemed to be the "end of the war" within the meaning of this act.

The words "bank or banks," as used herein, shall be deemed to mean and include national banks, State banks, trust companies, or

other banks or banking associations doing business under the laws of the United States, or of any State of the United States.

The words "to trade," as used herein, shall be deemed to mean—

(a) Pay, satisfy, compromise, or give security for the payment or satisfaction of any debt or obligation.

(b) Draw, accept, pay, present for acceptance or payment, or indorse any negotiable instrument or chose in action.

(c) Enter into, carry on, complete, or perform any contract, agreement, or obligation.

(d) Buy or sell, loan or extend credit, trade in, deal with, exchange, transmit, transfer, assign, or otherwise dispose of, or receive any form of property.

(e) To have any form of business or commercial communication or intercourse with.

SEC. 3. That it shall be unlawful—

(a) For any person in the United States, except with the license of the President, granted to such person, or to the enemy, or ally of enemy, as provided in this act, to trade, or attempt to trade, either directly or indirectly, with, to, or from, or for, or on account of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of enemy, or is conducting or taking part in such trade, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

(b) For any person, except with the license of the President, to transport or attempt to transport into or from the United States, or for any owner, master, or other person in charge of a vessel of American registry to transport or attempt to transport from any place to any other place, any subject or citizen of an enemy or ally of enemy nation, with knowledge or reasonable cause to believe that the person transported or attempted to be transported is such subject or citizen.

(c) For any person (other than a person in the service of the United States Government or of the Government of any nation, except that of an enemy or ally of enemy nation, and other than such persons or classes of persons as may be exempted hereunder by the President or by such person as he may direct) to send, or take out of, or bring into, or attempt to send, or take out of, or bring into the United States, any letter or other writing or tangible form of communication, except in the regular course of the mail; and it shall be unlawful for any person to send, take, or transmit, or attempt to send, take, or transmit out of the United States, any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication in-

tended for or to be delivered, directly or indirectly, to an enemy or ally of enemy: *Provided, however,* That any person may send, take, or transmit out of the United States anything herein forbidden if he shall first submit the same to the President, or to such officer as the President may direct, and shall obtain the license or consent of the President, under such rules and regulations, and with such exemptions, as shall be prescribed by the President.

(d) Whenever, during the present war, the President shall deem that the public safety demands it, he may cause to be censored under such rules and regulations as he may from time to time establish, communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country he may from time to time specify, or which may be carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country. Any person who willfully evades or attempts to evade the submission of any such communication to such censorship or willfully uses or attempts to use any code or other device for the purpose of concealing from such censorship the intended meaning of such communication shall be punished as provided in section 16 of this act.

SEC. 4. (a) Every enemy or ally of enemy insurance or reinsurance company, and every enemy or ally of enemy, doing business within the United States through an agency or branch office, or otherwise, may, within 30 days after the passage of this act, apply to the President for a license to continue to do business; and, within 30 days after such application, the President may enter an order either granting or refusing to grant such license. The license, if granted, may be temporary or otherwise, and for such period of time, and may contain such provisions and conditions regulating the business, agencies, managers, and trustees and the control and disposition of the funds of the company, or of such enemy or ally of enemy, as the President shall deem necessary for the safety of the United States; and any license granted hereunder may be revoked or regranted or renewed in such manner and at such times as the President shall determine: *Provided, however,* That reasonable notice of his intent to refuse to grant a license or to revoke a license granted to any reinsurance company shall be given by him to all insurance companies incorporated within the United States and known to the President to be doing business with such reinsurance company: *Provided further,* That no insurance company, organized within the United States, shall be obligated to continue any existing contract, entered into prior to the beginning of the war, with any enemy or ally of enemy insurance or reinsurance company, but any such company may abrogate and cancel any such contract by serving 30 days' notice

in writing upon the President of its election to abrogate such contract.

For a period of 30 days after the passage of this act, and further pending the entry of such order by the President, after application made by any enemy or ally of enemy insurance or reinsurance company, within such 30 days as above provided, the provisions of the President's proclamation of April 6, 1917, relative to agencies in the United States of certain insurance companies, as modified by the provisions of the President's proclamation of July 13, 1917, relative to marine and war-risk insurance, shall remain in full force and effect so far as it applies to such German insurance companies, and the conditions of said proclamation of April 6, 1917, as modified by said proclamation of July 13, 1917, shall also during said period of 30 days after the passage of this act, and pending the order of the President as herein provided, apply to any enemy or ally of enemy insurance or reinsurance company, anything in this act to the contrary notwithstanding. It shall be unlawful for any enemy or ally of enemy insurance or reinsurance company, to whom license is granted, to transmit out of the United States any funds belonging to or held for the benefit of such company or to use any such funds as the basis for the establishment directly or indirectly of any credit within or outside of the United States to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

For a period of 30 days after the passage of this act, and further pending the entry of such order by the President, after application made within such 30 days by any enemy or ally of enemy, other than an insurance or reinsurance company as above provided, it shall be lawful for such enemy or ally of enemy to continue to do business in this country and for any person to trade with, to, from, for, on account of, on behalf of, or for the benefit of such enemy or ally of enemy, anything in this act to the contrary notwithstanding: *Provided, however,* That the provisions of sections 3 and 16 hereof shall apply to any act or attempted act of transmission or transfer of money or other property out of the United States and to the use or attempted use of such money or property as the basis for the establishment of any credit, within or outside of the United States, to, or for the benefit of, or on behalf of, or on account of, an enemy or ally of enemy.

If no license is applied for within 30 days after the passage of this act, or if a license shall be refused to any enemy or ally of enemy, whether insurance or reinsurance company or other person, making application, or if any license granted shall be revoked by the President, the provisions of sections 3 and 16 hereof shall forthwith apply to all trade or to any attempt to trade with, to, from, for, by, on

account of, or on behalf of, or for the benefit of such company or other person: *Provided, however,* That after such refusal or revocation, anything in this act to the contrary notwithstanding, it shall be lawful for a policy holder or for an insurance company, not an enemy or ally of enemy, holding insurance or having effected reinsurance in or with such enemy or ally of enemy insurance or reinsurance company, to receive payment of, and for such enemy or ally of enemy insurance or reinsurance company to pay any premium, return premium, claim, money, security, or other property due or which may become due on or in respect to such insurance or reinsurance in force at the date of such refusal or revocation of license, and nothing in this act shall vitiate or nullify then existing policies or contracts of insurance or reinsurance, or the conditions thereof; and any such policy holder or insurance company, not an enemy or ally of enemy, having any claim to or upon money or other property of the enemy or ally of enemy insurance or reinsurance company in the custody or control of the Alien Property Custodian, hereinafter provided for, or of the Treasurer of the United States, may make application for the payment thereof and may institute suit as provided in section 9 hereof.

(b) That, during the present war, no enemy, or ally of enemy, and no partnership of which he is a member or was a member at the beginning of the war, shall for any purpose assume or use any name other than that by which such enemy or partnership was ordinarily known at the beginning of the war, except under license from the President.

Whenever, during the present war, in the opinion of the President the public safety or public interest requires, the President may prohibit any or all foreign insurance companies from doing business in the United States, or the President may license such company or companies to do business upon such terms as he may deem proper.

SEC. 5. (a) That the President, if he shall find it compatible with the safety of the United States and with the successful prosecution of the war, may, by proclamation, suspend the provisions of this act so far as they apply to an ally of enemy, and he may revoke or renew such suspension from time to time; and the President may grant licenses, special or general, temporary or otherwise, and for such period of time and containing such provisions and conditions as he shall prescribe, to any person or class of persons to do business as provided in subsection (a) of section 4 hereof, and to perform any act made unlawful without such license in section 3 hereof, and to file and prosecute applications under subsection (b) of section 10 hereof; and he may revoke or renew such licenses from time to time, if he shall be of opinion that such grant or revocation or renewal shall be compatible with the safety of the United States and with

the successful prosecution of the war; and he may make such rules and regulations, not inconsistent with law, as may be necessary and proper to carry out the provisions of this act; and the President may exercise any power or authority conferred by this act through such officer or officers as he shall direct.

If the President shall have reasonable cause to believe that any act is about to be performed in violation of section 3 hereof he shall have authority to order the postponement of the performance of such act for a period not exceeding 90 days, pending investigation of the facts by him.

(b) That the President may investigate, regulate, or prohibit, under such rules and regulations as he may prescribe, by means of licenses or otherwise, any transactions in foreign exchange, export or earmarkings of gold or silver coin or bullion or currency, transfers of credit in any form (other than credits relating solely to transactions to be executed wholly within the United States), and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, whether enemy, ally of enemy, or otherwise, or between residents of one or more foreign countries, by any person within the United States; and he may require any such person engaged in any such transaction to furnish, under oath, complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person, either before or after such transaction is completed.

SEC. 6. That the President is authorized to appoint, prescribe the duties of, and fix the salary (not to exceed \$5,000 per annum) of an official to be known as the alien property custodian, who shall be empowered to receive all money and property in the United States due or belonging to an enemy, or ally of enemy, which may be paid, conveyed, transferred, assigned, or delivered to said custodian under the provisions of this act; and to hold, administer, and account for the same under the general direction of the President and as provided in this act. The alien property custodian shall give such bond or bonds, and in such form and amount, and with such security as the President shall prescribe. The President may further employ in the District of Columbia and elsewhere and fix the compensation of such clerks, attorneys, investigators, accountants, and other employees as he may find necessary for the due administration of the provisions of this act: *Provided*, That such clerks, investigators, accountants, and other employees shall be appointed from lists of eligibles to be supplied by the Civil Service Commission and in accordance with the civil-service law: *Provided further*, That the President shall cause a detailed report to be made to Congress on the 1st day of January of each year of all proceedings had under this act

during the year preceding. Such report shall contain a list of all persons appointed or employed, with the salary or compensation paid to each, and a statement of the different kinds of property taken into custody and the disposition made thereof.

SEC. 7. (a) That every corporation incorporated within the United States, and every unincorporated association, or company, or trustee, or trustees within the United States, issuing shares or certificates representing beneficial interests, shall, under such rules and regulations as the President may prescribe and, within 60 days after the passage of this act, and at such other times thereafter as the President may require, transmit to the alien property custodian a full list, duly sworn to, of every officer, director, or stockholder known to be, or whom the representative of such corporation, association, company, or trustees has reasonable cause to believe to be an enemy or ally of enemy resident within the territory, or a subject or citizen residing outside of the United States, of any nation with which the United States is at war, or resident within the territory, or a subject or citizen residing outside of the United States, of any ally of any nation with which the United States is at war, together with the amount of stock or shares owned by each such officer, director, or stockholder, or in which he has any interest.

The President may also require a similar list to be transmitted of all stock or shares owned on February 3, 1917, by any person now defined as an enemy or ally of enemy, or in which any such person had any interest; and he may also require a list to be transmitted of all cases in which said corporation, association, company, or trustee has reasonable cause to believe that the stock or shares on February 3, 1917, were owned or are owned by such enemy or ally of enemy, though standing on the books in the name of another: *Provided, however,* That the name of any such officer, director, or stockholder shall be stricken permanently or temporarily from such list by the alien property custodian when he shall be satisfied that he is not such enemy or ally of enemy.

Any person in the United States who holds or has or shall hold or have custody or control of any property beneficial or otherwise, alone or jointly with others, of, for, or on behalf of an enemy or ally of enemy, or of any person whom he may have reasonable cause to believe to be an enemy or ally of enemy and any person in the United States who is or shall be indebted in any way to an enemy or ally of enemy, or to any person whom he may have reasonable cause to believe to be an enemy or ally of enemy, shall, with such exceptions and under such rules and regulations as the President shall prescribe, and within 30 days after the passage of this act, or within 30 days after such property shall come within his custody or control, or after such debt shall become due, report the fact to the alien property cus-

todian by written statement under oath containing such particulars as said custodian shall require. The President may also require a similar report of all property so held, of, for or on behalf of, and of all debts so owed to, any person now defined as an enemy or ally of enemy, on February 3, 1917: *Provided*, That the name of any person shall be stricken from the said report by the alien property custodian, either temporarily or permanently, when he shall be satisfied that such person is not an enemy or ally of enemy. The President may extend the time for filing the lists or reports required by this section for an additional period not exceeding 90 days.

(b) Nothing in this act contained shall render valid or legal, or be construed to recognize as valid or legal, any act or transaction constituting trade with, to, from, for or on account of, or on behalf or for the benefit of an enemy performed or engaged in since the beginning of the war and prior to the passage of this act, or any such act or transaction hereafter performed or engaged in except as authorized hereunder, which would otherwise have been or be void, illegal, or invalid at law. No conveyance, transfer, delivery, payment, or loan of money or other property, in violation of section 3 hereof, made after the passage of this act, and not under license as herein provided shall confer or create any right or remedy in respect thereof; and no person shall by virtue of any assignment, indorsement, or delivery to him of any debt, bill, note, or other obligation or chose in action by, from, or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy have any right or remedy against the debtor, obligor, or other person liable to pay, fulfill, or perform the same unless said assignment, indorsement, or delivery was made prior to the beginning of the war or shall be made under license as herein provided, or unless, if made after the beginning of the war and prior to the date of passage of this act, the person to whom the same was made shall prove lack of knowledge and of reasonable cause to believe on his part that the same was made by, from or on behalf of, or on account of, or for the benefit of an enemy or ally of enemy; and any person who knowingly pays, discharges, or satisfies any such debt, note, bill, or other obligation or chose in action shall, on conviction thereof, be deemed to violate section 3 hereof: *Provided*, That nothing in this act contained shall prevent the carrying out, completion, or performance of any contract, agreement, or obligation originally made with or entered into by an enemy or ally of enemy where, prior to the beginning of the war and not in contemplation thereof, the interest of such enemy or ally of enemy devolved by assignment or otherwise upon a person not an enemy or ally of enemy, and no enemy or ally of enemy will be benefited by such carrying out, completion, or performance otherwise than by release from obligation thereunder.

Nothing in this act shall be deemed to prevent payment of money belonging or owing to an enemy or ally of enemy to a person within the United States not an enemy or ally of enemy, for the benefit of such person or of any other person within the United States, not an enemy or ally of enemy, if the funds so paid shall have been received prior to the beginning of the war and such payments arise out of transactions entered into prior to the beginning of the war, and not in contemplation thereof: *Provided*, That such payment shall not be made without the license of the President, general or special, as provided in this act.

Nothing in this act shall be deemed to authorize the prosecution of any suit or action at law or in equity in any court within the United States by an enemy or ally of enemy prior to the end of the war, except as provided in section 10 hereof: *Provided, however*, That an enemy or ally of enemy licensed to do business under this act may prosecute and maintain any such suit or action so far as the same arises solely out of the business transacted within the United States under such license and so long as such license remains in full force and effect: *And provided further*, That an enemy or ally of enemy may defend by counsel any suit in equity or action at law which may be brought against him.

Receipt of notice from the President to the effect that he has reasonable ground to believe that any person is an enemy or ally of enemy shall be *prima facie* defense to anyone receiving the same, in any suit or action at law or in equity brought or maintained, or to any right or set-off or recoupment asserted by, such person and based on failure to complete or perform since the beginning of the war any contract or other obligation. In any prosecution under section 16 hereof, proof of receipt of notice from the President to the effect that he has reasonable cause to believe that any person is an enemy or ally of enemy shall be *prima facie* evidence that the person receiving such notice has reasonable cause to believe such other person to be an enemy or ally of enemy within the meaning of section 3 hereof.

(c) If the President shall so require, any money or other property owing or belonging to or held for, by, on account of, or on behalf of, or for the benefit of an enemy or ally of enemy not holding a license granted by the President hereunder, which the President after investigation shall determine is so owing or so belongs, or is so held, shall be conveyed, transferred, assigned, delivered, or paid over to the alien property custodian.

(d) If not required to pay, convey, transfer, assign, or deliver under the provisions of subsection (c) hereof, any person not an enemy or ally of enemy who owes to, or holds for, or on account of, or on behalf of, or for the benefit of an enemy or of an ally of enemy not

holding a license granted by the President hereunder, any money or other property, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, may, at his option, with the consent of the President, pay, convey, transfer, assign, or deliver to the alien-property custodian said money or other property under such rules and regulations as the President shall prescribe.

(e) No person shall be held liable in any court for or in respect to anything done or omitted in pursuance of any order, rule, or regulation made by the President under the authority of this act.

Any payment, conveyance, transfer, assignment, or delivery of money or property made to the alien property custodian hereunder shall be a full acquittance and discharge for all purposes of the obligation of the person making the same to the extent of same. The alien property custodian and such other persons as the President may appoint shall have power to execute, acknowledge, and deliver any such instrument or instruments as may be necessary or proper to evidence upon the record or otherwise such acquittance and discharge, and shall, in case of payment to the alien property custodian of any debt or obligation owed to an enemy or ally of enemy, deliver up any notes, bonds, or other evidences of indebtedness or obligation, or any security therefor in which such enemy or ally of enemy had any right or interest that may have come into the possession of the alien property custodian, with like effect as if he or they, respectively, were duly appointed by the enemy or ally of enemy, creditor, or obligee. The President shall issue to every person so appointed a certificate of the appointment and authority of such person, and such certificate shall be received in evidence in all courts within the United States. Whenever any such certificate of authority shall be offered to any registrar, clerk, or other recording officer, Federal or otherwise, within the United States, such officer shall record the same in like manner as a power of attorney, and such record or a duly certified copy thereof shall be received in evidence in all courts of the United States or other courts within the United States.

SEC. 8. (a) That any person not an enemy or ally of enemy holding a lawful mortgage, pledge, or lien, or other right in the nature of security in property of an enemy or ally of enemy which, by law or by the terms of the instrument creating such mortgage, pledge, or lien, or right, may be disposed of on notice or presentation or demand, and any person not an enemy or ally of enemy who is a party to any lawful contract with an enemy or ally of enemy, the terms of which provide for a termination thereof upon notice or for acceleration of maturity on presentation or demand, may continue to hold said property, and, after default, may dispose of the property in accordance with law or may terminate or mature such contract by

notice or presentation or demand served or made on the alien property custodian in accordance with the law and terms of such instrument or contract and under such rules and regulations as the President shall prescribe; and such notice and such presentation and demand shall have, in all respects, the same force and effect as if duly served or made upon the enemy or ally of enemy personally: *Provided*, That no such rule or regulation shall require that notice or presentation or demand shall be served or made in any case in which, by law or by the terms of said instrument or contract, no notice, presentation, or demand was, prior to the passage of this act, required; and that in case where, by law or by the terms of such instrument or contract, notice is required, no longer period of notice shall be required: *Provided further*, That if, on any such disposition of property, a surplus shall remain after the satisfaction of the mortgage, pledge, lien, or other right in the nature of security, notice of that fact shall be given to the President pursuant to such rules and regulations as he may prescribe, and such surplus shall be held subject to his further order.

(b) That any contract entered into prior to the beginning of the war between any citizen of the United States or any corporation organized within the United States, and an enemy or ally of an enemy, the terms of which provide for the delivery, during or after any war in which a present enemy or ally of enemy nation has been or is now engaged, of anything produced, mined, or manufactured in the United States, may be abrogated by such citizen or corporation by serving 30 days' notice in writing upon the alien-property custodian of his or its election to abrogate such contract.

(c) The running of any statute of limitations shall be suspended with reference to the rights or remedies on any contract or obligation entered into prior to the beginning of the war between parties neither of whom is an enemy or ally of enemy, and containing any promise to pay or liability for payment which is evidenced by drafts or other commercial paper drawn against or secured by funds or other property situated in an enemy or ally of enemy country, and no suit shall be maintained on any such contract or obligation in any court within the United States until after the end of the war, or until the said funds or property shall be released for the payment or satisfaction of such contract or obligation: *Provided, however*, That nothing herein contained shall be construed to prevent the suspension of the running of the statute of limitations in all other cases where such suspension would occur under existing law.

SEC. 9. That any person, not an enemy, or ally of enemy, claiming any interest, right, or title in any money or other property which may have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder, and held by him or by the

Treasurer of the United States, or to whom any debt may be owing from an enemy, or ally of enemy, whose property or any part thereof shall have been conveyed, transferred, assigned, delivered, or paid to the alien property custodian hereunder, and held by him or by the Treasurer of the United States, may file with the said custodian a notice of his claim under oath and in such form and containing such particulars as the said custodian shall require; and the President, if application is made therefor by the claimant, may, with the assent of the owner of said property and of all persons claiming any right, title, or interest therein, order the payment, conveyance, transfer, assignment, or delivery to said claimant of the money or other property so held by the alien property custodian or by the Treasurer of the United States or of the interest therein to which the President shall determine said claimant is entitled: *Provided*, That no such order by the President shall bar any person from the prosecution of any suit at law or in equity against the claimant to establish any right, title, or interest which he may have in such money or other property. If the President shall not so order within 60 days after the filing of such application, or if the claimant shall have filed the notice as above required and shall have made no application to the President, said claimant may, at any time before the expiration of six months after the end of the war, institute a suit in equity in the district court of the United States for the district in which such claimant resides, or if a corporation, where it has its principal place of business (to which suit the alien property custodian or the Treasurer of the United States, as the case may be, shall be made a party defendant), to establish the interest, right, title, or debt so claimed, and if suit shall be so instituted then the money or other property of the enemy, or ally of enemy, against whom such interest, right, or title is asserted, or debt claimed, shall be retained in the custody of the alien property custodian, or in the Treasury of the United States, as provided in this act, and until any final judgment or decree which shall be entered in favor of the claimant shall be fully satisfied by payment or conveyance, transfer, assignment, or delivery by the defendant or by the alien property custodian or Treasurer of the United States on order of the court, or until final judgment or decree shall be entered against the claimant or suit otherwise terminated.

Except as herein provided, the money or other property conveyed, transferred, assigned, delivered, or paid to the alien property custodian shall not be liable to lien, attachment, garnishment, trustee process, or execution, or subject to any order or decree of any court.

This section shall not apply, however, to money paid to the alien property custodian under section 10 hereof.

SEC. 10. That nothing contained in this act shall be held to make unlawful any of the following acts:

(a) An enemy, or ally of enemy, may file and prosecute in the United States an application for letters patent, or for registration of trade-mark, print, label, or copyright, and may pay any fees therefor in accordance with and as required by the provisions of existing law and fees for attorneys or agents for filing and prosecuting such applications. Any such enemy, or ally of enemy, who is unable during war, or within six months thereafter, on account of conditions arising out of war, to file any such application, or to pay any official fee, or to take any action required by law within the period prescribed by law, may be granted an extension of nine months beyond the expiration of said period, provided the nation of which the said applicant is a citizen, subject, or corporation shall extend substantially similar privileges to citizens and corporations of the United States.

(b) Any citizen of the United States, or any corporation organized within the United States, may, when duly authorized by the President, pay to an enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally enemy nation in relation to patents and trade-marks, prints, labels, and copyrights; and any such citizen or corporation may file and prosecute an application for letters patent or for registration of trade-mark, print, label, or copyright in the country of an enemy, or of an ally of enemy after first submitting such application to the President and receiving license so to file and prosecute, and to pay the fees required by law and customary agents' fees, the maximum amount of which in each case shall be subject to the control of the President.

(c) Any citizen of the United States or any corporation organized within the United States desiring to manufacture, or cause to be manufactured, a machine, manufacture, composition of matter, or design, or to carry on, or to use any trade-mark, print, label, or cause to be carried on, a process under any patent or copyrighted matter owned or controlled by an enemy or ally of enemy at any time during the existence of a state of war may apply to the President for a license; and the President is hereby authorized to grant such a license, nonexclusive or exclusive as he shall deem best, provided he shall be of the opinion that such grant is for the public welfare, and that the applicant is able and intends in good faith to manufacture, or cause to be manufactured, the machine, manufacture, composition of matter, or design, or to carry on, or cause to be carried on, the process or to use the trade-mark, print, label, or copyrighted matter. The President may prescribe the conditions of this license, including the fixing of prices of articles and products necessary to the health of the military and naval forces of the United States or the successful prosecution of the war, and the rules and regulations under which such license may be granted and the fee which shall be charged therefor, not exceeding \$100, and not exceeding 1 per cent of the fund

deposited as hereinafter provided. Such license shall be a complete defense to any suit at law or in equity instituted by the enemy or ally of enemy owners of the letters patent, trade-mark, print, label, or copyright, or otherwise, against the licensee for infringement or for damages, royalty, or other money award on account of anything done by the licensee under such license, except as provided in subsection (f) hereof.

(d) The licensee shall file with the President a full statement of the extent of the use and enjoyment of the license, and of the prices received in such form and at such stated periods (at least annually) as the President may prescribe; and the licensee shall pay at such times as may be required to the Alien Property Custodian not to exceed 5 per cent of the gross sums received by the licensee from the sale of said inventions or use of the trade-mark, print, label, or copyrighted matter, or, if the President shall so order, 5 per cent of the value of the use of such inventions, trade-marks, prints, labels, or copyrighted matter to the licensee as established by the President; and sums so paid shall be deposited by said Alien Property Custodian forthwith in the Treasury of the United States as a trust fund for the said licensee and for the owner of the said patent, trade-mark, print, label, or copyright registration as hereinafter provided, to be paid from the Treasury upon order of the court as provided in subdivision (f) of this section, or upon the direction of the Alien Property Custodian.

(e) Unless surrendered or terminated as provided in this act, any license granted hereunder shall continue during the term fixed in the license or in the absence of any such limitation during the term of the patent, trade-mark, print, label, or copyright registration under which it is granted. Upon violation by the licensee of any of the provisions of this act, or of the conditions of the license, the President may, after due notice and hearing, cancel any license granted by him.

(f) The owner of any patent, trade-mark, print, label, or copyright under which a license is granted hereunder may, after the end war and until the expiration of one year thereafter, file a bill in equity against the licensee in the district court of the United States for the district in which the said licensee resides, or, if a corporation, in which it has its principal place of business (to which suit the Treasurer of the United States shall be made a party), for recovery from the said licensee for all use and enjoyment of the said patented invention, trade-mark, print, label, or copyrighted matter: *Provided, however,* That whenever suit is brought, as above, notice shall be filed with the Alien Property Custodian within thirty days after the date of entry of suit: *Provided further,* That the licensee may make any and all defenses which would be available were no license

granted. The court on due proceedings had may adjudge and decree to the said owner payment of a reasonable royalty. The amount of said judgment and decree, when final, shall be paid on order of the court to the owner of the patent from the fund deposited by the licensee, so far as such deposit will satisfy said judgment and decree; and the said payment shall be in full or partial satisfaction of said judgment and decree, as the facts may appear; and if, after payment of all such judgments and decrees, there shall remain any balance of said deposit, such balance shall be repaid to the licensee on order of the Alien Property Custodian. If no suit is brought within one year after the end of the war, or no notice is filed as above required, then the licensee shall not be liable to make any further deposits, and all funds deposited by him shall be repaid to him on order of the Alien Property Custodian. Upon entry of suit and notice filed as above required, or upon repayment of funds as above provided, the liability of the licensee to make further reports to the President shall cease.

If suit is brought as above provided, the court may, at any time, terminate the license, and may, in such event, issue an injunction to restrain the licensee from infringement thereafter, or the court, in case the licensee, prior to suit, shall have made investment of capital based on possession of the license, may continue the license for such period and upon such terms and with such royalties as it shall find to be just and reasonable.

(g) Any enemy, or ally of enemy, may institute and prosecute suits in equity against any person other than a licensee under this act to enjoin infringement of letters patent, trade-mark, print, label, and copyrights in the United States owned or controlled by said enemy or ally of enemy, in the same manner and to the extent that he would be entitled so to do if the United States was not at war: *Provided*, That no final judgment or decree shall be entered in favor of such enemy or ally of enemy by any court except after 30 days' notice to the Alien Property Custodian. Such notice shall be in writing and shall be served in the same manner as civil process of Federal courts.

(h) All powers of attorney heretofore or hereafter granted by an enemy or ally of enemy to any person within the United States, in so far as they may be requisite to the performance of acts authorized in subsections (a) and (g) of this section, shall be valid.

(i) Whenever the publication of an invention by the granting of a patent may, in the opinion of the President, be detrimental to the public safety or defense, or may assist the enemy or endanger the successful prosecution of the war, he may order that the invention be kept secret and withhold the grant of a patent until the end of the war: *Provided*, That the invention disclosed in the application for

said patent may be held abandoned upon it being established before or by the Commissioner of Patents that, in violation of said order, said invention has been published or that an application for a patent therefor has been filed in any other country, by the inventor or his assigns or legal representatives, without the consent or approval of the commissioner or under a license of the President.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the President above referred to shall tender his invention to the Government of the United States for its use, he shall, if he ultimately receives a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government.

SEC. 11. Whenever during the present war the President shall find that the public safety so requires and shall make proclamation thereof it shall be unlawful to import into the United States from any country named in such proclamation any article or articles mentioned in such proclamation except at such time or times, and under such regulations or orders, and subject to such limitations and exceptions as the President shall prescribe, until otherwise ordered by the President or by Congress: *Provided, however,* That no preference shall be given to the ports of one State over those of another.

SEC. 12. That all moneys (including checks and drafts payable on demand) paid to or received by the Alien Property Custodian pursuant to this act shall be deposited forthwith in the Treasury of the United States, and may be invested and reinvested by the Secretary of the Treasury in United States bonds or United States certificates of indebtedness, under such rules and regulations as the President shall prescribe for such deposit, investment, and sale of securities; and as soon after the end of the war as the President shall deem practicable such securities shall be sold and the proceeds deposited in the Treasury.

All other property of an enemy, or ally of enemy, conveyed, transferred, assigned, delivered, or paid to the Alien Property Custodian hereunder shall be safely held and administered by him except as hereinafter provided; and the President is authorized to designate as a depositary, or depositaries, of property of an enemy or ally of enemy, any bank, or banks, or trust company, or trust companies, or other suitable depositary or depositaries, located and doing business in the United States. The Alien Property Custodian may deposit with such designated depositary or depositaries, or with the Secretary of the Treasury, any stocks, bonds, notes, time drafts, time bills of exchange, or other securities, or property (except money or checks or drafts payable on demand which are required to be deposited with the Secretary

of the Treasury), and such depositary or depositaries shall be authorized and empowered to collect any dividends or interest or income that may become due and any maturing obligations held for the account of such custodian. Any moneys collected on said account shall be paid and deposited forthwith by said depositary or by the Alien Property Custodian into the Treasury of the United States as hereinbefore provided.

The President shall require all such designated depositaries to execute and file bonds sufficient in his judgment to protect property on deposit, such bonds to be conditioned as he may direct.

The Alien Property Custodian shall be vested with all of the powers of a common-law trustee in respect of all property, other than money, which shall come into his possession in pursuance of the provisions of this act, and, acting under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe, may manage such property and do any act or things in respect thereof or make any disposition thereof or of any part thereof, by sale or otherwise, and exercise any rights which may be or become appurtenant thereto or to the ownership thereof, if and when necessary to prevent waste and protect such property and to the end that interests to the United States in such people and rights or of such person as may ultimately become entitled thereto, or to the proceeds thereof, may be preserved and safeguarded. It shall be the duty of every corporation incorporated within the United States and every unincorporated association, or company, or trustee, or trustees within the United States issuing shares or certificates representing beneficial interests to transfer such shares or certificates upon its, his, or their books into the name of the Alien Property Custodian upon demand, accompanied by the presentation of the certificates which represent such shares or beneficial interests. The Alien Property Custodian shall forthwith deposit in the Treasury of the United States, as hereinbefore provided, the proceeds of any such property or rights so sold by him.

Any money or property required or authorized by the provisions of this act to be paid, conveyed, transferred, assigned, or delivered to the Alien Property Custodian shall, if said custodian shall so direct by written order, be paid, conveyed, transferred, assigned, or delivered to the Treasurer of the United States with the same effect as if to the Alien Property Custodian.

After the end of the war any claim of any enemy or of an ally of enemy to any money or other property received and held by the Alien Property Custodian or deposited in the United States Treasury, shall be settled as Congress shall direct: *Provided, however,* That on order of the President as set forth in section 9 hereof, or of the court, as set forth in sections 9 and 10 hereof, the Alien Property Custodian or

the Treasurer of the United States, as the case may be, shall forthwith convey, transfer, assign, and pay to the person to whom the President shall so order, or in whose behalf the court shall enter final judgment or decree, any property of an enemy or ally of enemy held by said custodian or by said Treasurer, so far as may be necessary to comply with said order of the President or said final judgment or decree of the court: *And provided further*, That the Treasurer of the United States, on order of the Alien Property Custodian shall, as provided in section 10 hereof, repay to the licensee any funds deposited by said licensee.

SEC. 13. That, during the present war, in addition to the facts required by sections 4197, 4198 and 4200 of the Revised Statutes, as amended by the act of June 15, 1917, to be set out in the master's and shipper's manifests before clearance will be issued to vessels bound to foreign ports, the master or person in charge of any vessel, before departure of such vessel from port, shall deliver to the collector of customs of the district wherein such vessel is located a statement duly verified by oath that the cargo is not shipped or to be delivered in violation of this act, and the owners, shippers, or consignors of the cargo of such vessels shall in like manner deliver to the collector like statement under oath as to the cargo or the parts thereof laden or shipped by them, respectively, which statement shall contain also the names and addresses of the actual consignees of the cargo, or if the shipment is made to a bank or other broker, factor, or agent, the names and addresses of the persons who are the actual consignees on whose account the shipment is made. The master or person in control of the vessel shall, on reaching port of destination of any of the cargo, deliver a copy of the manifest and of the said master's, owner's, shipper's, or consignor's statement to the American consular officer of the district in which the cargo is unladen.

SEC. 14. That, during the present war, whenever there is reasonable cause to believe that the manifest or the additional statements under oath required by the preceding section are false or that any vessel, domestic or foreign, is about to carry out of the United States any property to or for the account or benefit of an enemy, or ally of enemy, or any property or person whose export, taking out, or transport will be in violation of law, the collector of customs for the district in which such vessel is located is hereby authorized and empowered subject to review by the President to refuse clearance to any such vessel, domestic or foreign, for which clearance is required by law, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, to forbid the departure of such vessel from the port, and it shall thereupon be unlawful for such vessel to depart.

The collector of customs shall, during the present war, in each case report to the President the amount of gold or silver coin or bullion or other moneys of the United States contained in any cargo intended for export. Such report shall include the names and addresses of the consignors and consignees, together with any facts known to the collector with reference to such shipment and particularly those which may indicate that such gold or silver coin or bullion or moneys of the United States may be intended for delivery or may be delivered, directly or indirectly, to an enemy or an ally of enemy.

SEC. 15. That the sum of \$450,000 is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, to be used in the discretion of the President for the purpose of carrying out the provisions of this act during the fiscal year ending June 30, 1918, and for the payment of salaries of all persons employed under this act, together with the necessary expenses for transportation, subsistence, rental of quarters in the District of Columbia, books of reference, periodicals, stationery, typewriters and exchanges thereof, miscellaneous supplies, printing to be done at the Government Printing Office, and all other necessary expenses not included in the foregoing.

SEC. 16. That whoever shall willfully violate any of the provisions of this act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of this act, shall, upon conviction, be fined not more than \$10,000, or, if a natural person, imprisoned for not more than ten years, or both; and the officer, director, or agent of any corporation who knowingly participates in such violation shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, concerned in such violation shall be forfeited to the United States.

SEC. 17. That the district courts of the United States are hereby given jurisdiction to make and enter all such rules as to notice and otherwise, and all such orders and decrees, and to issue such process as may be necessary and proper in the premises to enforce the provisions of this act, with a right of appeal from the final order or decree of such court as provided in sections 128 and 238 of the act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary."

SEC. 18. That the several courts of first instance in the Philippine Islands and the district court of the Canal Zone shall have jurisdiction of offenses under this act committed within their respective districts, and concurrent jurisdiction with the district courts of the United States of offenses under this act committed upon the seas

and of conspiracies to commit such offenses as defined by section 37 of the act entitled "An act to codify, revise, and amend the penal laws of the United States," approved March 4, 1909, and the provisions of such section for the purpose of this act are hereby extended to the Philippine Islands and to the Canal Zone.

SEC. 19. That ten days after the approval of this act and until the end of the war, it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto: *Provided*, That this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each such item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster at-----on----- (naming the post office where the translation was filed, and the date of filing thereof), as required by the act of----- (here giving the date of this act)."

Any print, newspaper, or publication in any foreign language which does not conform to the provisions of this section is hereby declared to be nonmailable, and it shall be unlawful for any person, firm, corporation, or association, to transport, carry, or otherwise publish or distribute the same, or to transport, carry or otherwise publish or distribute any matter which is made nonmailable by the provisions of the act relating to espionage, approved June 15, 1917: *Provided further*, That upon evidence satisfactory to him that any print, newspaper, or publication printed in a foreign language may be printed, published, and distributed free from the foregoing restrictions and conditions without detriment to the United States in the conduct of the present war, the President may cause to be issued to the printers or publishers of such print, newspaper, or publication, a permit to print, publish, and circulate the issue or issues of their print, newspaper, or publication, free from such restrictions and requirements, such permits to be subject to revocation at his discretion. And the Postmaster General shall cause copies of all such permits and revocations of permits to be furnished to the postmaster of the post office serving the place from which the print,

newspaper, or publication, granted the permit is to emanate. All matter printed, published, and distributed under permits shall bear at the head thereof in plain type in the English language, the words, "Published and distributed under permit authorized by the act of ----- (here giving date of this act) on file at the post office of ----- (giving name of office)."

Any person who shall make an affidavit containing any false statement in connection with the translation provided for in this section shall be guilty of the crime of perjury and subject to the punishment provided therefor by section 125 of the act of March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States," and any person, firm, corporation, or association, violating any other requirement of this section shall, on conviction thereof, be punished by a fine of not more than \$500, or by imprisonment of not more than one year, or, in the discretion of the court, may be both fined and imprisoned.

Approved, October 6, 1917.

INDUSTRIAL PROPERTY—TRADING-WITH-THE-ENEMY ACT OF OCTOBER 6, 1917—REGULATION—EXECUTIVE ORDER OF OCTOBER 12, 1917.

Executive order vesting power and authority in designated officers and making rules and regulations under trading-with-the-enemy act and Title VII of the act approved June 15, 1917.

By virtue of the authority vested in me by "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, and by Title VII of the act approved June 15, 1917, entitled "An act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage and better to enforce the criminal laws of the United States and for other purposes" (hereinafter designated as the espionage act), I hereby make the following orders and rules and regulations:

WAR TRADE BOARD.

1. I hereby establish a War Trade Board to be composed of representatives, respectively, of the Secretary of State, of the Secretary of Treasury, of the Secretary of Agriculture, of the Secretary of Commerce, of the Food Administrator, and of the United States Shipping Board.

2. I hereby vest in said board the power and authority to issue licenses under such terms and conditions as are not inconsistent with law, or to withhold or refuse licenses, for the exportation of all

articles, except, coin, bullion, or currency, the exportation or taking of which out of the United States may be restricted by proclamation heretofore or hereafter issued by me under said Title VII of the espionage act.

3. I further hereby vest in said War Trade Board the power and authority to issue, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse, licenses for the importation of all articles the importation of which may be restricted by any proclamation hereafter issued by me under section 11 of the trading-with-the-enemy act.

4. I further hereby vest in said War Trade Board the power and authority not vested in other officers by subsequent provisions of this order, to issue, under such terms and conditions as are not inconsistent with law, or to withhold or refuse, licenses to trade directly with, or from, or for the benefit of, or on behalf of, or for the benefit of, any other person, with knowledge or reasonable cause to believe that such other person is an enemy or ally of the enemy, or is conducting or taking part, directly or indirectly, for, or on account of, or on behalf of, or for the benefit of, an enemy or ally of enemy.

5. I further hereby vest in said War Trade Board the power and authority, under such terms as are not inconsistent with law, to issue to every enemy or ally of enemy, other than enemy or ally of enemy insurance or reinsurance companies, doing business within the United States through an agency or branch office, or otherwise applying therefor within 30 days of October 6, 1917, licenses, temporary or otherwise, to continue to do business, or said board may withhold or refuse the same.

6. And I further hereby vest in said War Trade Board the executive administration of the provision of section 4 (b) of the trading-with-the-enemy act relative to granting licenses to enemies and enemy allies to assume or use other names than those by which they were known at the beginning of the war. And I hereby authorize said board to issue licenses not inconsistent with the provisions of law or to withhold or refuse licenses to any enemy, or ally of enemy, or partnership of which an enemy or ally of enemy is a member or was a member at the beginning of the war, to assume or use any name other than than by which such enemy or ally of enemy or partnership was ordinarily known at the beginning of the war.

7. I hereby revoke the Executive order of August 21, 1917, creating the Exports Administrative Board. All proclamations, rules, regulations, and instructions made or given by me under Title VII of the espionage act and now being administered by the Exports Administrative Board are hereby continued, confirmed, and made applicable to the War Trade Board, and all employees of the Exports Administrative Board are hereby transferred to and constituted employees

of the War Trade Board in the same capacities, and said War Trade Board is hereby authorized to exercise without interruption the powers heretofore exercised by said Exports Administrative Board.

8. The said War Trade Board is hereby authorized and empowered to take all such measures as may be necessary or expedient to administer the powers hereby conferred. And I hereby vest in the War Trade Board the power conferred upon the President by section 5 (a) to make such rules and regulations, not inconsistent with law, as may be necessary and proper for the exercise of the powers conferred upon said board.

WAR TRADE COUNCIL.

9. I hereby establish a War Trade Council to be composed of the Secretary of State, Secretary of the Treasury, Secretary of Agriculture, Secretary of Commerce, the Food Administrator, and the chairman of the Shipping Board, and I hereby authorize and direct the said War Trade Council thus continued to act in an advisory capacity in such matters under said acts as may be referred to them by the President or the War Trade Board.

SECRETARY OF THE TREASURY.

10. I hereby vest in the Secretary of the Treasury the executive administration of any investigation, regulation, or prohibition of any transaction in foreign exchange, export, or earmarking of gold or silver coin or bullion or currency, transfers of credit in any form—others than credits relating solely to transactions to be executed wholly within the United States—and transfers of evidences of indebtedness or of the ownership of property between the United States and any foreign country, or between residents of one or more foreign countries, by any person within the United States; and I hereby vest in the Secretary of the Treasury the authority and power to require any person engaged in any such transaction to furnish under oath complete information relative thereto including the production of books of account, contracts, letters, or other papers in connection therewith in the custody or control of such person, either before or after such transaction is completed.

11. I further hereby vest in the Secretary of the Treasury the executive administration of the provisions of subsection (c) of section 3 of the trading-with-the-enemy act, relative to sending, or taking out of, or bringing into, or attempting to send, take out of, or bring into, the United States any letter, writing, or tangible form of communication except in the regular course of mail; and of the sending, taking, or transmitting, or attempting to send, take, or transmit, out of the United States, any letter or other writing, book, map, plan, or

other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy. And said Secretary of the Treasury is hereby authorized and empowered to issue licenses to send, take, or transmit out of the United States anything otherwise forbidden by said subsection (c) and give such consent or grant such exemption in respect thereto, as is not inconsistent with law, or to withhold or refuse the same.

12. I hereby authorize and direct to Secretary of the Treasury, for the purpose of such executive administration, to take such measures, adopt such administrative procedure, and use such agency or agencies as he may from time to time deem necessary and proper for that purpose. The proclamation of the President dated September 7, 1917, made under authority vested in him by Title VII of said act of Congress, approved June 15, 1917, shall remain in full force and effect until new regulations shall have been established by the President, or by the Secretary of the Treasury, with the approval of the President, and thereupon shall be superceded.

CENSORSHIP BOARD.

14. I hereby establish a Censorship Board to be composed of representatives, respectively, of the Secretary of War, the Secretary of the Navy, the Postmaster General, the War Trade Board and the Chairman of the Committee on Public Information.

15. And I hereby vest in said Censorship Board the executive administration of the rules, regulations, and proclamations from time to time established by the President under subsection (d) of section 3, of the trading-with-the-enemy act, for the censorship of communications by mail, cable, radio, or other means of transmission passing between the United States and any foreign country from time to time specified by the President, or carried by any vessel or other means of transportation touching at any port, place, or territory of the United States and bound to or from any foreign country.

16. The said Censorship Board is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

FEDERAL TRADE COMMISSION.

17. I further hereby vest in the Federal Trade Commission the power and authority to issue licenses under such terms and conditions as are not inconsistent with law or to withhold or refuse the same to any citizen of the United States or any corporation organized within the United States to file and prosecute applications in the country of any enemy or ally of enemy for letters patent or for registration

of trade-mark, print, label, or copyright, and to pay the fees required by law and the customary agents' fees, the maximum amount of which in each case shall be subject to the control of such commission; or to pay to any enemy or ally of enemy any tax, annuity, or fee which may be required by the laws of such enemy or ally of enemy nation in relation to patents, trade-marks, prints, labels and copyrights.

18. I hereby vest in the Federal Trade Commission the power and authority to issue, pursuant to the provisions of section 10 (*c*) of the trading-with-the-enemy act, upon such terms and conditions as are not inconsistent with law, or to withhold or refuse, a license to any citizen of the United States, or any corporation organized within the United States, to manufacture or cause to be manufactured a machine, manufacture, composition of matter, or design, or to carry on or cause to be carried on a process under any patent, or to use any trade-mark, print, label, or copyrighted matter owned or controlled by an enemy, at any time during the present war; and also to fix the prices of articles and products manufactured under such licenses necessary to the health of the military and the naval forces of the United States, or the successful prosecution of the war; and to prescribe the fee which may be charged for such license, not exceeding \$100 and not exceeding 1 per cent of the fund deposited by the licensee with the alien property custodian as provided by law.

19. I hereby further vest in the said Federal Trade Commission the executive administrations of the provisions of section 10 (*d*) of the trading-with-the-enemy act, the power and authority to prescribe the form of, and time and manner of filing statements of the extent of the use and enjoyment of the license and of the prices received and the times at which the license shall make payments to the Alien Property Custodian, and the amounts of said payments, in accordance with the trading-with-the-enemy act.

20. I further hereby vest in the Federal Trade Commission the power and authority, whenever in its opinion the publication of an invention or the granting of a patent may be detrimental to the public safety or defense, or may assist the enemy, or endanger the successful prosecution of the war, to order that the invention be kept secret and the grant of letters patent withheld until the end of the war.

21. The said Federal Trade Commission is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

THE POSTMASTER GENERAL.

22. I hereby vest in the Postmaster General the executive administration of all the provisions (except the penal provisions) of section 19 of the trading-with-the-enemy act, relating to the printing,

publishing, or circulation in any foreign language of any news item, editorial, or other printed matter respecting the Government of the United States or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war or any matter relating thereto, and the filing with the postmaster at the place of publication, in the form of an affidavit of a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publications, and the issuance of permits for the printing, publication, and distribution thereof free from said restriction. And the Postmaster General is authorized and empowered to issue such permits upon such terms and conditions as are not inconsistent with law, and to refuse, withhold, or revoke the same.

23. The sum of \$35,000, or so much thereof as may be necessary, is hereby allotted out of the funds appropriated by the trading-with-the-enemy act to be expended by the Postmaster General in the administration of said section 19 thereof.

24. The Postmaster General is hereby authorized to take all such measures as may be necessary or expedient to administer the powers hereby conferred.

SECRETARY OF STATE.

25. I hereby vest in the Secretary of State the executive administration of the provisions of subsection (b) of section 3 of the trading-with-the-enemy act relative to any person transporting or attempting to transport any subject or citizen of an enemy or ally of enemy nation, and relative to transporting or attempting to transport any subject or citizen of an enemy or ally enemy nation, and relative to transporting or attempting to transport by any owner, master, or other person in charge of a vessel of American registry, from any place to any other place, such subject or citizen of an enemy or enemy ally.

26. And I hereby authorize and empower the Secretary of State to issue licenses for such transportation of enemies and enemy allies or to withhold or refuse the same.

27. And said Secretary of State is hereby authorized and empowered to take all such measures as may be necessary or expedient to administer the powers hereby conferred and to grant, refuse, withhold, or revoke licenses thereunder.

SECRETARY OF COMMERCE.

28. I hereby vest in the Secretary of Commerce the power to review the refusal of any collector of customs under the provisions of sections 13 and 14 of the trading-with-the-enemy act to clear any vessel, domestic or foreign, for which clearance is required by law.

ALIEN PROPERTY CUSTODIAN.

29. I hereby vest in the Alien Property Custodian, to be hereafter appointed, the executive administration of all the provisions of section 7 (a), section 7 (c), and section 7 (d) of the trading-with-the-enemy act, including all power and authority to require lists and reports, and to extend the time for filing the same, conferred upon the President by the provisions of said section 7 (a), and including the power and authority conferred upon the President by the provisions of said section 7 (c), to require the conveyance, transfer, delivery, or payment to himself, at such time and in such manner as he shall prescribe, of any money or other properties owing to or belonging to or held for, by or on account of, or on behalf of, or for the benefit of any enemy or ally of an enemy holding a license granted under the provisions of the trading-with-the-enemy act, which, after investigation, said Alien Property Custodian shall determine is so owing, or so belongs, or is so held.

30. Any person who desires to make conveyance, transfer, payment, assignment, or delivery, under the provisions of section 7 (d) of the trading-with-the-enemy act, to the Alien Property Custodian of any money or other property owing to or held for, by or on account of, or on behalf in or for the benefit of an enemy or ally of enemy, not holding a license granted as provided in the trading-with-the-enemy act, or to whom any obligation or form of liability to such enemy or ally of enemy is presented for payment, shall file application with the Alien Property Custodian for consent and permit to so convey, assign, deliver, or pay such money or other property to him, and said Alien Property Custodian is hereby authorized to exercise the power and authority conferred upon the President by the provisions of section 7 (d) to consent and to issue permit upon such terms and conditions as are not inconsistent with law, or to withhold or refuse the same.

31. I further vest in the Alien Property Custodian the executive administration of all the provisions of section 8 (a), section 8 (b), and section 9 of the trading-with-the-enemy act, so far as said sections relate to the powers and duties of said Alien Property Custodian.

32. I vest in the Attorney General all power and authority conferred upon the President by the provisions of section 9 of the trading-with-the-enemy act.

33. The Alien Property Custodian to be hereafter appointed is hereby authorized to take such measures as may be necessary or expedient, and not inconsistent with law, to administer the powers hereby conferred; and he shall further have the power and authority to make such rules and regulations not inconsistent with law as may be necessary and proper to carry out the provisions of said section

7 (a), section 7 (c), section 7 (d), section 8 (a), and section 8 (b), conferred upon the President by the provisions thereof and by the provisions of section 5 (a), said rules and regulations to be fully approved by the Attorney General.

34. The Alien Property Custodian to be hereafter appointed shall "under the supervision and direction of the President, and under such rules and regulations as the President shall prescribe," have administration of all moneys (including checks and drafts payable on demand) and of all property, other than money which shall come into his possession in pursuance of the provisions of the trading-with-the-enemy act, in accordance with provisions of section 6, section 10, and section 12 thereof.

(Signed) WOODROW WILSON.

THE WHITE HOUSE,
October 12, 1917.

WITHHOLDING GRANTS OF PATENTS IN TIME OF WAR.

[PUBLIC—No. 80—65TH CONGRESS.]

[S. 2531.]

An act to prevent the publication of inventions by the grant of patents that might be detrimental to the public safety or convey useful information to the enemy, to stimulate invention, and provide adequate protection to owners of patents, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever during a time when the United States is at war the publication of an invention by the granting of a patent might, in the opinion of the Commissioner of Patents, be detrimental to the public safety or defense or might assist the enemy or endanger the successful prosecution of the war he may order that the invention be kept secret and withhold the grant of a patent until the termination of the war: *Provided*, That the invention disclosed in the application for said patent may be held abandoned upon it being established before or by the commissioner that in violation of said order said invention has been published or that an application for a patent therefor has been filed in a foreign country by the inventor or his assigns or legal representatives, without the consent or approval of the Commissioner of Patents, or under a license of the Secretary of Commerce as provided by law.

When an applicant whose patent is withheld as herein provided and who faithfully obeys the order of the Commissioner of Patents above referred to shall tender his invention to the Government of the United States for its use, he shall, if and when he ultimately received

a patent, have the right to sue for compensation in the Court of Claims, such right to compensation to begin from the date of the use of the invention by the Government.

Approved, October 6, 1917.

INDUSTRIAL PROPERTY—"WAR MEASURES"—TRADING-WITH-THE-ENEMY ACT OF OCTOBER 6, 1917 (SEC. 10)—INSTRUCTIONS, RULES, AND FORMS ISSUED BY THE FEDERAL TRADE COMMISSION.

TRADING WITH THE ENEMY.

INSTRUCTIONS, RULES, AND FORMS CONCERNING PATENTS, TRADE-MARKS, PRINTS, LABELS, AND COPYRIGHTS ISSUED BY THE FEDERAL TRADE COMMISSION.

Payment of patent, trade-mark, and copyright taxes, annuities, and fees in enemy countries and filing and prosecuting applications therein.—Applicants for licenses must submit, in the English language, to the Federal Trade Commission every application for letters patent, for the registration of trade-mark, print, label, or copyright which they desire to file in the country of an enemy or ally of enemy, every amendment, power of attorney, letter, or communication with respect thereto, and every drawing, electro, or other cut or reproduction, specimen, facsimile, copy, or model, together with any check, draft, or other form of remittance for any tax, annuity, or fee, and agents' or attorneys' fees or compensation proposed to be sent, directly or indirectly, to any country of an enemy or ally of an enemy. In the case of chemical compounds or compositions of matter there shall also be submitted samples of the article or preparation, or samples of the ingredients, if any; and in the case of coloring matters prepared from tar, a sample of the dyeing of wool, silk, or cotton, and any statement, description, and directions in respect thereto, if and as required by the foreign law, and any and all other samples, specimens, descriptions, statements, and directions proposed to be forwarded.

There shall also be submitted at the same time, the envelope or other cover stamped with sufficient postage and addressed, in which the matters herein mentioned are proposed to be forwarded.

The intention is to have submitted to the Federal Trade Commission every inclosure and cover concerning every application for patent, trade-mark, print, label, or copyright and their prosecution, desired to be forwarded, directly or indirectly, to an enemy country or to the country of an ally of an enemy.

Everything (except remittance) is required to be furnished to the Federal Trade Commission in duplicate. One copy will be retained in the files of the commission.

Each application for a license shall be accompanied by the affidavit of the applicant, his solicitor, or patent agent that nothing contained in any of the material submitted will give any information detrimental to the public safety or defense or which may assist the enemy or endanger the successful prosecution of the war, and that the amount of money, if any, proposed to be transmitted is the correct tax, annuity, or fee and the customary agents' fee, and such affidavit shall also state what portion of the remittance is to be applied to taxes, fees, or annuities and what portion to agents' fees.

It is unlawful and punishable by fine and imprisonment of anyone without first obtaining a license to forward applications for letters patent or for the registration of trade-mark, print, label, or copyright in an enemy or ally of enemy nation indirectly through correspondence or agents in any foreign country.

Applications for licenses under patents and copyrights owned or controlled by an enemy or ally of an enemy.—Applicants for a license under patents or copyrights owned or controlled by an enemy or an ally of an enemy are required to file a verified statement with the Federal Trade Commission in concise and nontechnical language, covering the following points, stating in each instance the facts upon which any conclusion may be based:

(a) If an individual, that he is a citizen of the United States. If a corporation, that it is organized within the United States.

(b) That the patent or copyright desired to be licensed is owned or controlled by an enemy or an ally of an enemy.

If it is claimed that the patent or copyright is controlled by an enemy or ally of an enemy, the nature and origin of the control should be plainly stated, whether by contract, agency, stock ownership, or otherwise.

(c) There shall be attached to the application a Patent Office copy of the patent and a certified abstract of title to it, or a specimen of the copyrighted article and a certified copy of the copyright entries, and in the case of a patent, of a certified copy of the petition and all powers of attorney in the file of the application.

(d) That licensing the applicant is for the public welfare. Specifically, that there is a demand for the patented or copyrighted article or the product of the patented process which is not being met.

(e) That the applicant is able to make or cause to be made the patented or copyrighted article or exercise the patented process. Specifically, that the applicant is technically and otherwise equipped to undertake or procure the manufacture or operate the process and is in fact able to do so.

(f) That the applicant intends to do so in good faith.

(g) The application must be verified by the person applying for the license, and in the case of a corporation by an officer thereof acquainted with the facts recited.

Each application shall be accompanied with a remittance of \$100. A suggested form of application is appended.

A separate application is required for each patent or copyright.

The application should be prepared in duplicate and, for convenience in filing, on good unglazed paper 8 by 10½ inches, directed to the Federal Trade Commission, patent, trade-mark, and copyright division, and may be transmitted by mail or delivered personally. Personal attendance at the outset is not necessary. If any hearings are desired, notice of them will be given.

In every case where practicable notice of applications for license will be given to the attorney of the patentee or copyright proprietor whose name appears in the file of the application in the Patent Office or the office of the register of copyrights.

The burden of establishing affirmatively the facts upon which, under the terms of the act, licenses may be granted is placed upon the applicant for license.

THE TERMS OF THE LICENSE.

The act provides and the Executive order vests in the Federal Trade Commission the duty of prescribing the conditions of the license.

The form of licenses proposed to be issued is appended.

Only non-exclusive licenses will be issued unless the public interest shall otherwise require.

DURATION OF LICENSE.

The act provides (Sec. 10 (e)) that licenses shall continue during the terms fixed in the license, or, in the absence of any such limitation, during the term of the patent * * * or copyright registration under which it is granted, and that upon violation by the licensee of any of the provisions of the act, or of the conditions of the license, after due notice and hearing, the license may be canceled.

Licenses under trade-marks, prints, and labels owned or controlled by an enemy or an ally of an enemy.—Licenses for the use of trade-marks, prints, and labels will be granted only under exceptional circumstances. Applications for licenses under the following conditions will be entertained.

(1) Where the alleged trade-mark is the name of a patented or copyrighted article and a license is granted under the patent or copyright.

(2) Where the alleged trade-mark is the name of an article manufactured under an expired patent or copyright.

THE LICENSE FEE.

The act provides that the license fee shall not exceed \$100, and not exceeding 1 per cent of the sum deposited with the Alien Property Custodian. This fund is an amount not to exceed (a) 5 per cent of the gross sums received by the licensee from the sale of the licensed subject matter, or (b) 5 per cent of the value of the use of the licensed subject matter as established by the Federal Trade Commission.

ACCOUNTING AND PAYMENT TO THE ALIEN PROPERTY CUSTODIAN.

The licensee shall file with the Federal Trade Commission, semi-annually on January 1 and July 1 of each year and oftener if required, a full statement of the extent of the use and enjoyment of the license, and of the prices received from the sale or use of the subject matter of it, and within 30 days thereafter the licensee shall pay to the Alien Property Custodian not to exceed 5 per cent of the gross sums received from the sale of the licensed subject matter, or if the Federal Trade Commission so order not to exceed 5 per cent of the value of the use of the licensed subject matter as established by the Federal Trade Commission.

[Suggested form of application to the Federal Trade Commission for a license.]

TRADING WITH THE ENEMY ACT.

To the Federal Trade Commission:

Application of ----- for a license under patent to -----, date -----, No. -----.

(If under copyright, state title of work, name of copyright proprietor, and date of copyright registration.)

The undersigned, for the purpose of securing a license, represents to the Federal Trade Commission as follows:

(a) The undersigned is a citizen of the United States, residing at ----- street, in the city of -----, State of -----, United States of America. (If a corporation, state under the laws of what State it is organized; the location of its corporate offices, its business offices, and plants or factories.)

(b) The undersigned is desirous of being licensed under the patent (or copyright) above named, which is owned or controlled by -----, a citizen or subject of ----- (State the enemy country or the ally of the enemy of which the patentee or copyright proprietor is a citizen or subject, or if a corporation where it is incorporated, and if the patent or copyright is not owned but is claimed to be controlled state fully the facts which establish the nature and origin of

the enemy or ally of enemy control, whether it is brought about by means of an agency, by contract, by stock ownership in corporations, or otherwise.)

(c) Attached hereto is a Patent Office copy of the letters patent, a certified abstract of its title from the Patent Office, and a certified copy of the petition and all powers of attorney in the file of the application (or, in the case of a copyright, a specimen of the copyrighted work and a certified copy of the copyright entries from the office of the register of copyrights).

(d) It is for the public welfare that the license applied for be granted because— (Here state briefly but completely and in non-technical language the reason why it is for the public benefit that the license be granted and specifically the demand for the article prior to the war, the demand for the article at the present time whether or not this demand is being met or can be met, prices obtained prior to the war and prices at the present time.)

(e) Applicant is able to make or cause to be made the patented or copyrighted article because— (Here state specifically the applicant's experience in the production of articles of the kind covered by the patent or copyright, his technical equipment for manufacturing and selling such articles and his ability to do so, the estimated cost of manufacture and price proposed to be charged if the license is granted.)

(If the applicant does not intend to manufacture but to procure the manufacture of the article, state specifically what arrangements have been made or proposed to this end and their terms and conditions. State the name and address of the manufacturer proposed to be employed and his technical equipment, etc., and attach copies of any contracts or proposals.)

(f) The license desired is exclusive or nonexclusive for the following reasons: (Here state reasons why, in the opinion of the applicant, the license should be exclusive or nonexclusive.)

(g) The license is desired (1) for the term of the patent or copyright, (2) the duration of the war, or (3) any other period, stating reasons in each case.

(h) The application is also to contain the following:

The undersigned intends in good faith to manufacture or cause to be manufactured the article licensed and understands that the license, if granted, may not be assigned and may be canceled by the Federal Trade Commission, after due notice of hearing, upon violation by the undersigned of any of the provisions of the trading-with-the-enemy act or of any of the conditions of the license.

(Signed) _____,

Applicant.

OATH FOR AN INDIVIDUAL.

State of _____

County of _____, ss:

_____, being duly sworn, deposes and states that he is the same person whose name is signed to the foregoing statement; that he has read this statement and knows and understands its contents; and that it is true.

Subscribed and sworn to before me this _____ day of _____, 191____

Notary Public.

OATH FOR A CORPORATION.

State of _____

County of _____, ss:

_____, being duly sworn, deposes and states that he is the _____ of _____, the corporation whose name is signed to the foregoing statement; that he is duly authorized to swear to such statement on behalf of such corporation; that he has read this statement and knows and understands its contents, and that it is true.

Subscribed and sworn to before me this _____ day of _____, 191____

Notary Public.

FORM OF LICENSE UNDER PATENT.

Patent license issued by the Federal Trade Commission under the provisions of the trading-with-the-enemy act will be in substantially the following form:

Patent No. _____, dated _____, to _____, for _____

The Federal Trade Commission, under the authority of and in conformity with the trading-with-the-enemy act, and of the Executive order of October 12, 1917, hereby licenses _____ to make, use, and vend within the United States the invention described and claimed in United States Letters Patent to _____, No. _____, dated _____ (copy annexed hereto) for the period of _____ unless sooner terminated.

The licensee during the continuance of this license shall pay to the Alien Property Custodian, semiannually, within 30 days after the 1st day of January and the 1st day of July, respectively, of each year, a royalty at the rate of _____ per cent of the gross sums received by the license from the sale of the invention so herein licensed (or _____ per cent of the value of the use thereof to the licensee as established by the Federal Trade Commission).

The licensee shall, during the continuance of this license, keep proper accounts and separate books containing full particulars of:

(a) All articles made or caused to be made by the licensee under the said letters patent and of the price or prices charged therefor;

(b) All items of cost incurred in the use of such invention and the manufacture and sale of articles made thereunder; and

(c) All other matters and things which in the opinion of the Federal Trade Commission may be material for the purpose of showing the amounts from time to time payable by the licensee concerning such royalty and what is a fair and reasonable price to the public for such article.

The licensee shall, within ten days after each of the semiannual days aforesaid, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall, during the continuance of this license, give all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of the use of such invention, the cost of producing and the price or prices charged by the licensee for the said article, and for that purpose shall, if requested by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business of the licensee in which the use of the said invention or the manufacture of the said article shall be carried on and all books, papers, and documents of such licensee relating to such use, manufacture, and sale.

If any payment under this license shall not be made within one month after the same shall have become due under the provisions herein contained (whether demand therefor shall have been made or not), or if the licensee shall or shall attempt to assign or part with the benefit of or grant any sublicense under this license, or shall make default in the performance or observance of any obligation on his part herein contained, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if, after ten days' notice in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

If in the opinion of the Federal Trade Commission the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the subject matter thereof; or

If in the opinion of the Federal Trade Commission the licensee has failed to supply to the public the articles made under this license at reasonable prices; or

If in the opinion of the Federal Trade Commission the licensee has charged unreasonable or excessive prices for articles made under this license; or

If in the opinion of the Federal Trade Commission the articles made under this license are of unsatisfactory quality (and the licensee shall furnish to the Federal Trade Commission in the manner prescribed by it and when and as often as required, samples and specimens for inspection, analysis, and test); or

Circumstances have arisen which, in the opinion of the Federal Trade Commission, make it just and equitable that this license be canceled in whole or in part;

The Federal Trade Commission may, in its discretion, give notice in writing to the licensee to terminate and cancel this license in whole or in part, and, if canceled and terminated, the same shall be without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated, _____, 191__

Accepted and agreed to.

Licensee.

A copy of the patent is to be attached.

If the licensee is not to be the actual manufacturer, the licensee will be held accountable to the Federal Trade Commission for the observance of the terms of his license by the actual manufacturer of the article, and the license will contain the following addendum, naming the actual manufacturer who shall sign:

_____, the manufacturer for _____,
the licensee _____ of the article herein licensed, separately agrees to keep separate books containing full particulars of all articles manufactured, and the cost thereof, sold to _____, the licensee, and the price or prices charged therefor, and his books and plant shall be open to inspection in the same manner as provided for the licensee. The licensee and the undersigned, during the continuance of the license, shall furnish or procure to be furnished all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee, the cost of producing or procuring the patented article, the price or prices charged for said article, and shall permit or procure permission to be given to such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the manufacture of the patented article

shall be carried on by the undersigned for the licensee, and all books, papers, and documents relating to such manufacture and sale.

The undersigned, manufacturer, is not authorized to make, use, or vend the invention of the patent except for _____ the licensee, and not further or otherwise, and the undersigned undertakes to observe and perform the terms and conditions of the license to _____, to which this is attached.

Dated; _____, 191---

Accepted and agreed to.

_____,
Manufacturer.

FORM OF LICENSE UNDER COPYRIGHT.

Copyright licenses issued by the Federal Trade Commission under the provisions of the trading-with-the-enemy act will be in substantially the following form:

Copyright No. _____, dated _____ to _____ for the (book, etc., as the case may be; see Copyright Act of Mar. 4, 1909, sec. 5, for classification) entitled (insert title of work).

The Federal Trade Commission, under the authority of and in conformity with the trading-with-the-enemy act and of the Executive order of October 12, 1917, hereby licenses _____ to exercise within the United States all the rights created by the copyright laws of the United States of America, being the act of March 4, 1909, as amended, with respect to the subject matter of copyright to _____, No. _____, dated _____ for the (book, etc., as the case may be; see copyright act of Mar. 4, 1909, sec. 5, for classification) entitled (insert title of work), a copy of which is annexed hereto, for the period of _____, unless sooner terminated.

The licensee, during the continuance of this license, shall pay to the Alien Property Custodian, semiannually, within 30 days after the 1st day of January, and the 1st day of July, respectively, of each year, a royalty at the rate of _____ per cent of the gross sums received by the licensee from the sale of the copyright work so herein licensed (or _____ per cent of the value of the use thereof to the licensee as established by the Federal Trade Commission).

The licensee shall, during the continuance of this license, keep proper accounts and separate books containing full particulars of—

(a) All copies of said copyright work made or caused to be made by the licensee under the said copyright and of the price or prices charged therefor;

(b) All items of cost incurred in the use of said copyright work and in the manufacture and sale of such copyright work, and

(c) All other matters and things which, in the opinion of the Federal Trade Commission, may be material for the purpose of showing the amounts from time to time payable by the licensee concerning such royalty, and what is a fair and reasonable price to the public for such copyright work.

The licensee shall, within 10 days after each of the semiannual days aforesaid, deliver a sworn statement to the Federal Trade Commission in writing showing the aforesaid particulars.

The licensee shall during the continuance of this license give all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee under this license, the cost of producing, and the price or prices charged by the licensee for the said copyright work, and for that purpose shall, if requested by the Federal Trade Commission, permit such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business of the licensee in which the use or manufacture of the said copyright work shall be carried on, and all books, papers, and documents of such licensee relating to such use, manufacture, and sale.

If any payment under this license shall not be made within one month after the same shall have become due under the provisions herein contained (whether demand therefor shall have been made or not), or if the licensee shall or shall attempt to assign or part with the benefit of or grant any sublicense under this license, or shall make default in the performance or observance of any obligation on his part herein contained, or shall have violated any of the conditions of this license or any of the provisions of the statute under which it is granted, and if after 10 days' notice, in writing, shall have failed to comply with the aforesaid, then the Federal Trade Commission may, by notice in writing, and after a hearing, cancel and terminate this license as from the date of such notice, but without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

If in the opinion of the Federal Trade Commission the licensee has failed to use this license so as to satisfy the reasonable requirement of the public with regard to the copyright work; or

If in the opinion of the Federal Trade Commission the licensee has failed to supply to the public the copyright work at reasonable prices; or

If in the opinion of the Federal Trade Commission the licensee has charged unreasonable or excessive prices for said copyright work; or

Circumstances have arisen which in the opinion of the Federal Trade Commission make it just and equitable that this license be canceled in whole or in part;

The Federal Trade Commission may, in its discretion, give notice in writing to the licensee to terminate this license in whole or in part,

and if canceled and terminated the same shall be without prejudice to and so as not in any manner to affect any liability hereunder on the part of the licensee which may then be subsisting or have accrued.

Any sums which may at any time be payable by the licensee under the provisions of this license shall be a debt due from the licensee to the people of the United States and shall be recovered in an appropriate action in the name of the people of the United States against the licensee.

Dated _____, 191__

Accepted and agreed to.

Licensee.

If the licensee is not to be the actual manufacturer or producer of the copyright work, the licensee will be held accountable to the Federal Trade Commission for the observance of the terms of his license by the actual manufacturer or producer of the work, and the license will contain the following addendum, naming the actual manufacturer or producer of the work, who shall sign:

_____, the manufacturer for _____, the licensee of the copyright work herein licensed, separately agrees to keep separate books containing full particulars of all such copyright works manufactured and the cost thereof, sold to _____, the licensee, and the price or prices charged therefor, and his books and plant shall be open to inspection in the same manner as provided for the licensee. The licensee and the undersigned, during the continuance of the license, shall furnish or procure to be furnished all such information as the Federal Trade Commission may consider to be material for the purpose of ascertaining the amount of royalty payable by the licensee, the cost of producing or procuring the copyright work, the price or prices charged therefor, and shall permit or procure permission to be given to such person or persons as shall be authorized in that behalf by the Federal Trade Commission at any time or times to enter upon and inspect any factory or place of business in which the manufacture of the copyright work shall be carried on by the undersigned for the licensee, and all books, papers, and documents relating to such manufacture and sale.

The undersigned, manufacturer, is not authorized to exercise any right conferred by the copyright statutes with respect to the copyright work here involved except for _____, the licensee, and not further or otherwise, and the undersigned undertakes to observe and perform the terms and conditions of the license to _____ to which this is attached.

Dated _____, 191__

Accepted and agreed to.

A surety company bond may be required of the licensee, if, in the opinion of the Federal Trade Commission, it is necessary to safeguard the public interest.

PATENTS—TRADE-MARKS—TRADE NAMES—"SALVARSAN"—"606"—
"ARSENOBENZOL"—"ARSAMINOL"—LICENSE TO MANUFACTURE AND
VEND UNDER TRADE NAME "ARSPHENAMINE"—"WAR MEASURES"—
TRADING WITH THE ENEMY.

[Act, sec. 10—Order of Nov. 30, 1917.]

The Federal Trade Commission has authorized the following:

The Federal Trade Commission to-day entered orders for licenses to three firms to manufacture and sell the product heretofore known under the trade names of "Salvarsan," "606," "Arsenobenzol," "Arsaminol," patent rights which have been held by German subjects. The orders for licenses are subject to acceptance and agreements by the licensees to the stipulations made by the commission. Upon such acceptance and agreement licenses Nos. 1, 2, and 3 will be formally granted by Secretary L. L. Bracken, acting for the commission.

Hereafter this important drug will be manufactured and sold under the name of "Arsphenamine."

AUTHORITY FOR ACTION.

The Trade Commission's action was taken under section 10 of the trading-with-the-enemy act, under direction of Commissioner Fort, upon recommendation of C. H. McDonald, Edward S. Rogers, and Francis Phelps, in charge of granting such licenses. The Public Health Service has prepared rules and standards for the manufacture and testing of "Arsphenamine," and will supervise its manufacture, authority having been conferred on the Public Health Service by the Secretary of the Treasury, and the observance of the rules and standards become a condition of the license.

The three firms which will be hereby permitted to manufacture and sell "Arsphenamine" are Dermatological Research Laboratories, of Philadelphia; Takamine Laboratory (Inc.), of New York; and Farbwerke Hoechst Co. (Herman A. Metz Laboratory), of New York. The original patent for manufacture of what has heretofore been known as "Salvarsan," etc., was issued to Paul Ehrlich and Alfred Berthelm, German subjects, and assigned to Farbwerke Vormal's Meister, Lucius and Brüning, of Hoechst on the Main, Germany.

The supply of the drug now licensed to be made in America, up to 1915, was almost exclusively obtained by importation from Germany. It is at present the only known specific for virulent blood poison. From the outbreak of the war importation became more difficult.

PRICE OF DRUG.

Before the war began the patent drug was sold at \$4 per dose, which is approximately \$3,500 per pound, and speculatively it has brought as high as \$35 per dose. While the price of the product is not fixed at this time by the commission, the right to fix prices is retained, and a price of \$1 per dose to the Army and Navy, \$1.25 per dose for hospitals, and \$1.50 per dose for physicians are the prices at which some, at least, of the licensees have stated that they intend to offer the licensed drug.

The enormous shortage of supply of this important product will immediately be relieved, and the article placed in the hands of the Government, the hospitals, and the medical profession at a price lower than ever before.

(From 1 *Official Bulletin*, Washington, Nov. 30, 1917.)

EXECUTIVE ORDER REVOKING POWER AND AUTHORITY IN DESIGNATED OFFICERS UNDER THE TRADING-WITH-THE-ENEMY ACT.

By virtue of the power and authority vested in me by "an act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, I hereby make the following orders and rules and regulations:

SECRETARY OF THE TREASURY.

I. I hereby revoke the authority and power vested in the Secretary of the Treasury by Section XI of the Executive order of October 12, 1917, to issue licenses to send, take, or transmit out of the United States any letter or other writing, book, map, plan, or other paper, picture, or any telegram, cablegram, or wireless message, or other form of communication intended for or to be delivered, directly or indirectly, to an enemy or ally of enemy, in any way relating to letters patent, or registration of trade-mark, print, label, or copyright, or to any applications therefor; and no such license shall be granted until further order.

FEDERAL TRADE COMMISSION.

II. I hereby revoke the power and authority vested in the Federal Trade Commission by Section XVII of the Executive order of October 12, 1917, to issue licenses to any citizens of the United States, or any corporation organized within the United States, to file or prosecute applications in the country of an enemy or ally of enemy

for letters patent or for registration of trade-mark, print, label, or copyright, and to pay any fees or agents' fees in connection therewith, or to pay to any enemy or ally of enemy any tax, annuity, or fee in relation to patents, trade-marks, prints, labels, and copyrights; and no such license shall be granted until further order.

WOODROW WILSON.

THE WHITE HOUSE,
11 April, 1918.

UNLICENSED USE BY THE UNITED STATES OF PATENTED INVENTIONS—
COMPENSATION SECURED BY SUIT IN COURT OF CLAIMS.

[PUBLIC—No. 182—65TH CONGRESS.]

[H. R. 10854.]

An act making appropriations for the naval service for the fiscal year ending June 30, 1919, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

* * * * *

The act entitled "An act to provide additional protection for the owners of patents of the United States, and for other purposes," approved June 25, 1910, shall be, and the same is hereby, amended to read as follows, namely:

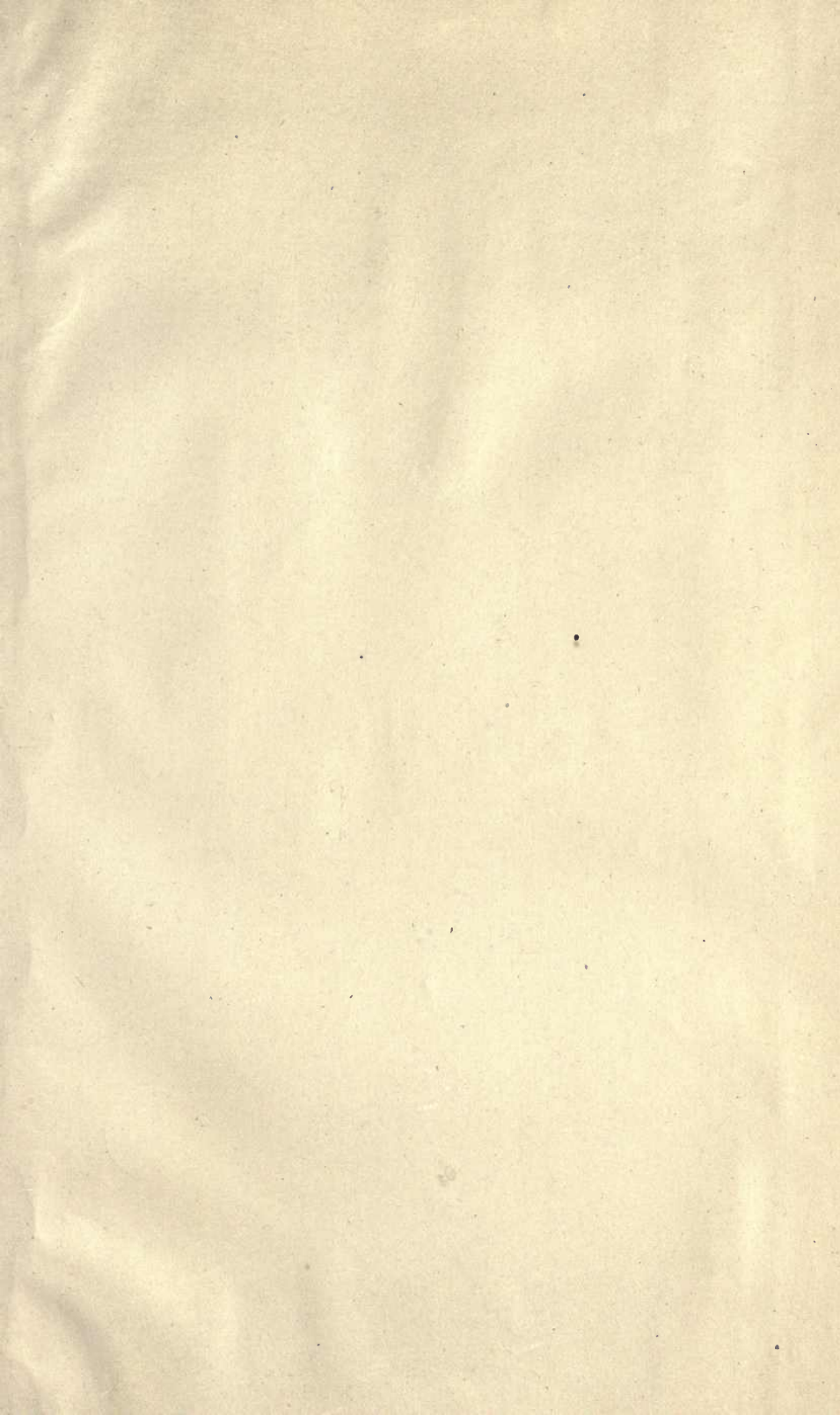
That whenever an invention described in and covered by a patent of the United States shall hereafter be used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same, such owner's remedy shall be by suit against the United States in the Court of Claims for the recovery of his reasonable and entire compensation for such use and manufacture: *Provided, however,* That said Court of Claims shall not entertain a suit or award compensation under the provisions of this act where the claim or compensation is based on the use or manufacture by or for the United States of any article heretofore owned, leased, used by, or in the possession of the United States:

Provided further, That in any such suit the United States may avail itself of any and all defenses, general or special, that might be pleaded by a defendant in an action for infringement, as set forth in title 60 of the Revised Statutes, or otherwise:

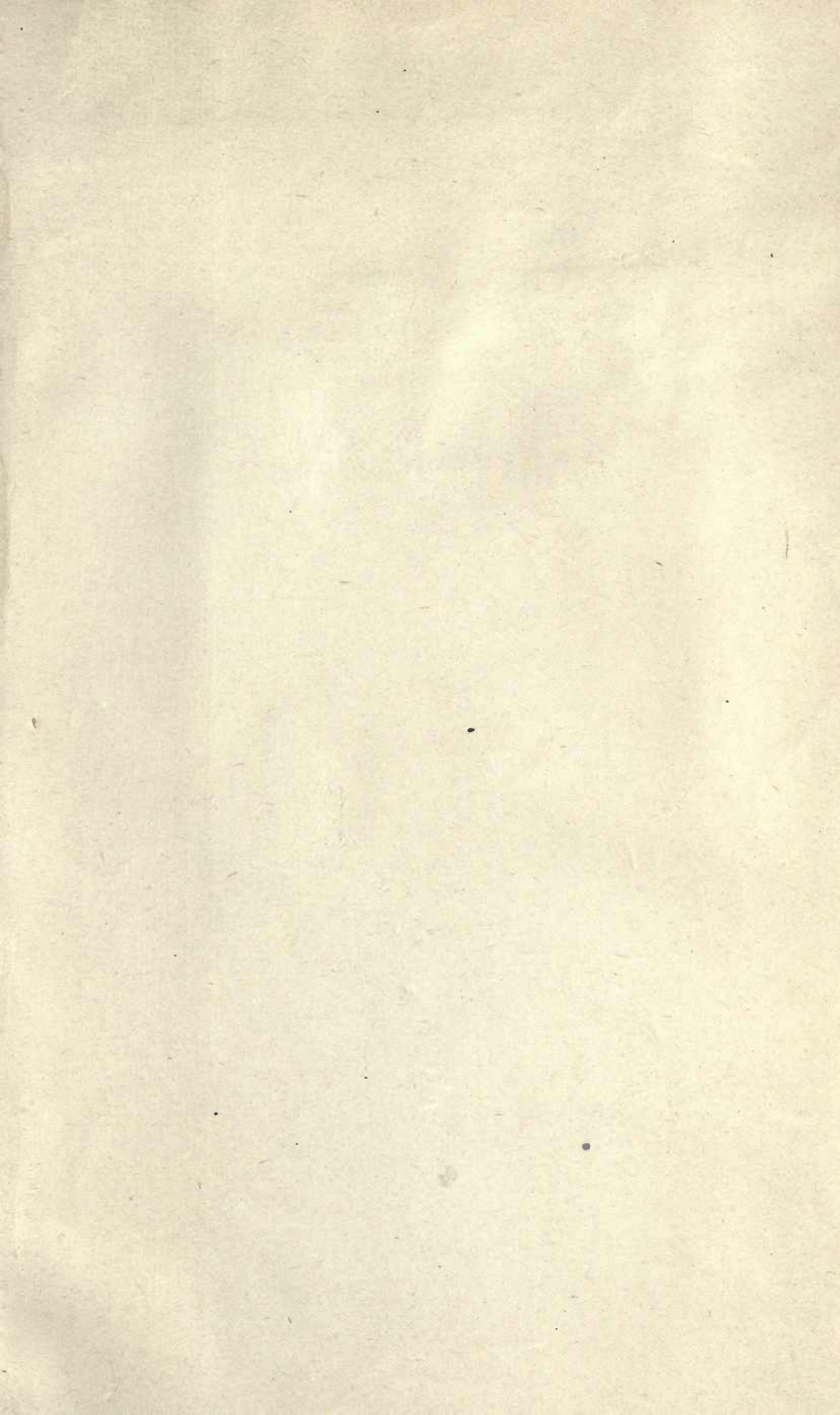
And provided further, That the benefits of this act shall not inure to any patentee who, when he makes such claim, is in the employment or service of the Government of the United States, or the assignee of any such patentee; nor shall this act apply to any device discovered or invented by such employee during the time of his employment or service.

* * * * *

Approved July 1, 1918.







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